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CIS

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1991

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

SUBCOMMITTEE ON THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

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BOB CARR, Michigan	
ALAN B. MOLLOHAN, West Virginia	

JOHN G. OSTHAUS and GEORGE H. SCHAFER, *Subcommittee StaffSubcommittee Staff*

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DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1991

TUESDAY, FEBRUARY 27, 1990.

OFFICE OF THE U.S. TRADE REPRESENTATIVE

WITNESSES

CARLA A. HILLS, U.S. TRADE REPRESENTATIVE

DAVID H. BURNS, ASSISTANT U.S. TRADE REPRESENTATIVE FOR ADMINISTRATION

Mr. SMITH. This afternoon we shall first consider the fiscal year 1991 budget request for the Office of the U.S. Trade Representative. The request is for $18,936,000, an increase of $1,158,000 above the fiscal year 1990 adjusted level.

At this point we will insert in the record the justification materials submitted in support of this request.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

OPERATIONS AND ADMINISTRATION

RESOURCE ESTIMATES, FISCAL YEAR 1991

CONGRESSIONAL SUBMISSION

JANUARY 26, 1990

2

CONTACT: DAVID BURNS
ASSISTANT U.S. TRADE REPRESENTATIVE
USTR FOR ADMINISTRATION
395-5797

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General Statement

The Office of the U.S. Trade Representative is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and leading or directing negotiations with other countries on such matters. The U.S. Trade Representative is a Cabinet level official who acts as the principal trade advisor, negotiator, and spokesperson for the President on trade and related investment matters. Through the interagency structure, the USTR coordinates trade policy, resolves agency disagreements, and frames issues for Presidential decision. The USTR, her deputies in Washington and Geneva, the U.S. Coordinator for Multilateral Trade Negotiations, and the Chief Textile Negotiator, hold the rank of Ambassador. "USTR" refers both to the agency and to the agency head, the U.S. Trade Representative. There are two offices, one in Washington, D.C. and the other in Geneva, Switzerland.

The agency provides trade policy leadership and negotiating expertise in its major areas of responsibility. Among these are the following: all matters within the General Agreement of Tariffs and Trade (GATT) including implementation of the 1979 Multilateral Trade Negotiations (MTN) Agreements; trade, commodity, and direct investment matters dealt with by international institutions such as the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade Development (UNCTAD); export expansion policy; East-West trade; industrial and services trade policy; international commodity agreements and policy; bilateral and multilateral trade and investment issues; trade-related intellectual property protection issues; and import policy. The agency is organized to accommodate sectoral, regional, and functional policy perspectives which are integrated into the decision-making process, and coordinated externally with government agencies, the private sector, and foreign entities.

Interagency coordination is accomplished by the agency through the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC). These groups draw representatives from 14 Executive Branch agencies with continuing involvement in international trade issues. Additional agencies are invited to attend meetings of the groups depending on the specific issues to be discussed.

The TPSC is the first line operating group with representation by senior officials. It is supported by 57 subcommittees and various task forces which are responsible for specialized areas and several task forces that deal with particular issues. If agreement is not reached in the TPSC, or if very significant policy questions are being considered, issues are taken up by the TPRG (Sub-Cabinet level). If Cabinet-level review is needed, the USTR presents TPRG options to the Economic Policy Council.

The trade reorganization of 1979 also provided for a Cabinet-level Trade Negotiating Committee (TNC) within the Trade Policy Committee structure. This Committee is currently inactive.

The USTR also serves as Vice Chairman of the Overseas Private Investment Corporation (OPIC), is a non-voting member of the Export-Import Bank, and a member of the National Advisory Committee on International Monetary and Financial Policies. There are several significant trade and related policy areas not handled by the USTR but which are followed closely by the staff, specifically, export financing, export controls, multilateral development bank lending, international fisheries, aviation and maritime policies.

The agency also has administrative responsibility for the Generalized System of Preferences (GSP) and Section 301 complaints against foreign unfair trade practices, as well as coordination of the Presidential review phase in intellectual property cases under Section 337 and import relief cases under Section 201. The Omnibus Trade and Competitiveness Act of 1988 (Trade Act of 1988) transferred authority to the USTR to take action under Section 301, subject to the direction of the President.

The private sector plays a continuing role in trade negotiations through the mechanism of advisory committees. This advisory process was extremely successful during the MTN. Congress provided for continuation of the process in the Trade Agreements Act of 1979. The committees' role has been expanded to include advice on the operation of the MTN Agreements, on the development and implementation of overall U.S. trade policy, and on priorities for actions to implement such policy.

Primary objectives of the private sector advisory system are: to consult with the U.S. government on negotiation of trade agreements, to assist in monitoring compliance with the agreements and to provide input and advice on the development of U.S. trade policy. The advisory system is composed of a series of Committees with different responsibilities. The Advisory Committee on Trade Policy and Negotiations (ACTPN), a Presidentially appointed committee, has 45 members from representative elements of the U.S. economy with international trade interests. Its mandate is to provide overall policy guidance on trade issues.

At the next level are seven policy advisory committees in the specific areas of industry, agriculture, labor, defense, services, investment, and intergovernmental affairs. There are also technical, sectoral and functional advisory committees, which are composed of experts from their respective fields. The Agricultural Technical Advisory Committees (ATACs), the Industry Sector Advisory Committees (ISACs) and the Labor Sector Advisory Subcommittees (LSACs), provide specific and technical information on problems within the private sector, such as automobiles, steel, wheat, aircraft or poultry, which are being affected by trade policy. In addition, functional committees have been established to monitor certain codes of conduct negotiated during the MTN. The Industry Sector Advisory Committees have two such functional committees: customs valuation and standards. In addition, a third committee has recently been added for intellectual property. The Labor Advisory Committee has three such functional committees: government procurement, standards, and unfair trade practices.

In the Trade Act of 1974, Congress broadened and codified the Trade Representative's trade policymaking and negotiating functions and established close Congressional consultative, advisory, and oversight relationships with the agency. In the Trade Agreements Act of 1979, Congress assigned overall responsibility for formulation of U.S. trade policy to the U.S. Trade Representative. Most recently, in the Omnibus Trade and Competitiveness Act of 1988, Congress further clarified USTR's leadership role in developing and coordinating trade policy and serving as the President's principal advisor on trade. Throughout the life of the agency, there has been close consultation between the USTR and the Congress. Five Members from each House are formally appointed under statute as official Congressional advisors on trade policy, and additional Members may be appointed as advisors on particular issues and advise the USTR on them, and on related negotiations. Liaison activities between the agency and Congress are extensive. The staff concerned with Congressional Relations is headed by an Assistant U.S. Trade Representative.

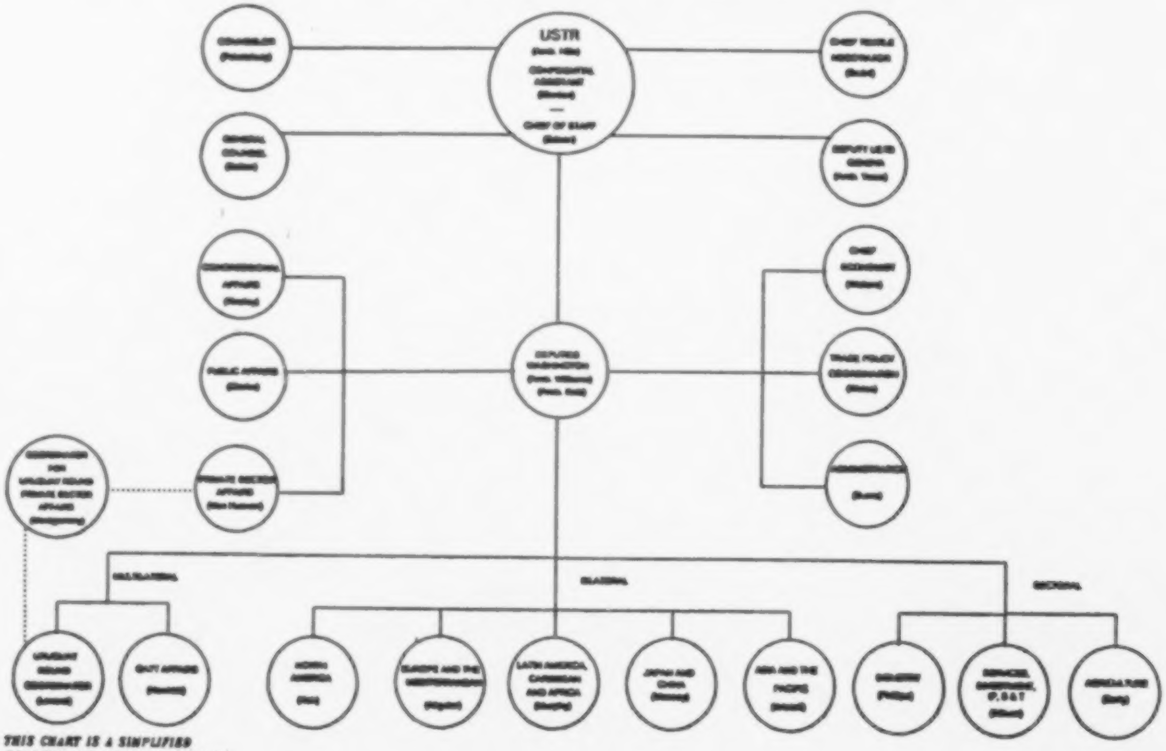
In Washington, the agency is organized into four types of activities. General support (General Counsel, Congressional Affairs, Public Affairs and Private Sector Liaison, Policy Coordination and Administration), Bilateral Negotiations (Canada and Mexico; Japan and China; Europe and the Mediterranean); Latin America, Caribbean and Africa; Asia and the Pacific); Multilateral Negotiations (Uruguay Round, GATT Affairs); and Sectoral Functions (Industry; Services, Investment, Intellectual Property, and Science and Technology; Textiles; and Agriculture). The Senior Staff, composed of the heads of each of the aforementioned units, identifies near-term issues, assigns responsibility for and schedules review of issues, and develops USTR policy positions or recommends positions to the USTR and Deputy USTRs-Washington and Geneva. Senior Staff meetings are held on a weekly basis.

The Geneva Office is organized to cover general GATT Affairs, Non-Tariff Agreements and Agricultural Policy and Commodity Policy. Special attention is given to textiles with one member of the staff serving as U.S. Representative to the Textiles Surveillance Body. The Geneva Deputy USTR is the U.S. Ambassador to the GATT and to the UNCTAD on commodity matters. The Geneva staff represents the United States' interests in negotiations, and in other contacts on trade and trade policy in both forums.

The Uruguay Round of Multilateral Trade Negotiations in the GATT was launched in September 1986. The primary Administration trade policy goal is to expand and strengthen the international trading system by successfully negotiating an ambitious package of results in these negotiations. USTR is responsible for leading the interagency effort to assure that the negotiations result in fundamental reform of the trading system. The Uruguay Round is scheduled to conclude at a Ministerial meeting to be held in Brussels, Belgium on December 3-7, 1990.

The Trade Act of 1988 (the Act) has had a very significant resource impact on the agency. The Act provides negotiating and implementation authority for the Uruguay Round, and mandates extensive consultation and coordination by USTR in shaping U.S. negotiating objectives and strategy for the Round. It also tasks USTR with significantly expanded responsibilities in administering trade cases under Section 301, and changes in the Act have brought a substantial increase in the contentiousness and complexity of Section 301 cases. The Act created new negotiating programs in the areas of intellectual property and telecommunications, as well as a new reciprocity program for government procurement, coordinated by USTR. The Act expanded responsibilities for consultation and coordination by USTR, substantially expanded the scope of the annual National Trade Estimates report on trade barriers, and mandated many one-time and recurring reporting responsibilities.

THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE


USTR
CHIEF OF STAFF
PUBLIC AFFAIRS
TRADE POLICY COORDINATION
MULTILATERAL
BILATERAL
SECTORAL
GATT AFFAIRS
NORTH AMERICA
EUROPE AND THE MEDITERRANEAN
LATIN AMERICA, CARIBBEAN AND AFRICA
JAPAN AND CHINA
ASIA AND THE PACIFIC
INDUSTRY
SERVICES, INVESTMENT, IP, S&T
AGRICULTURE

THIS CHART IS A SIMPLIFIED RENDITION OF ACTUAL REPORTING RELATIONSHIPS

1/90

This request is to provide sufficient funds to support the mission of the Office of the United States Trade Representative (USTR) in FY 1991. That mission is the development, coordination, negotiation and overall management of U.S. trade policy on behalf of the President.

In FY 1991, USTR will require $18,936,000 and 152 positions. This request is $1,158,000 above the adjusted FY 1990 appropriation level of $17,778,000; i.e. the level as reduced by sequestration adjustments ($-222,000). These resources take into account the expenditures necessary to conclude the Uruguay Round of trade negotiations, to continue to fulfill the requirements of the Omnibus Trade and Competitiveness Act of 1988, the implementation of the U.S. - Canada Free Trade Agreement, and the continuing demands of the bilateral effort to reduce impediments to trade.

The U.S. - Canada Free Trade Agreement (CFTA)

A substantial portion of the USTR request, $1.5 million, will pay for the increased costs of administering the dispute settlement procedures under Chapter 19 of CFTA. This program is administered through a binational secretariat, the U.S. section of which is located within the Department of Commerce. The Commerce Department, which disburses these funds and develops the budget estimates, expects a significant increase in the requests for Chapter 19 settlements in FY 1991. Under Chapter 19 provisions all dispute cases must be heard and evaluated. The Department of Commerce believes that $1.5 million will be necessary for the adjudication of these disputes in FY 1991.

Conclusion of the Uruguay Round ($131,000)

The pace of Uruguay Round activity is accelerating steadily through FY 1990. We expect that the conclusion of these negotiations, which will occur during the first three months of FY 1991, will be an especially intense period. Significant activity (5-10 weeks of meetings) is expected in each of the 15 negotiating groups during this period, requiring the presence of a large number of USTR personnel in Geneva and other capitals to move towards a conclusion of negotiating group activities.

In December, a week long meeting of Ministers and delegations from GATT countries is planned in Brussels to attempt to finalize agreements under the Round. This session will be a large logistic exercise. Extra travel during the first quarter of FY 1991 and the costs of supporting a large U.S. delegation at the Brussels Ministerial is anticipated to cost $675,000.

Following conclusion of the framework agreements in Brussels, implementing agreements will have to be negotiated with all participants. USTR expects this phase, including heavy travel demands, to continue at least through June 1991. Additional funds needed to support the Uruguay Round will include $6,000 for Representation Funds, $100,000 for printing, and $25,000 for equipment.

Personnel Costs (+678K)

Because of the planned increase in SES salaries and regular government pay increases, USTR personnel costs will rise appreciably. Our base of $10,605,000 in personnel costs will rise by $678,000 in FY 1991 of which $440,000 was funded. USTR expects to absorb a portion of the mandated pay increase of $238,000.

Other Objects Technical Increase ($147,000)

As noted above the travel needs will continue to constitute a major part of USTR resource requests. Total travel costs in FY 1991 are estimated at $1,461,000, a 3% ($25,000) increase over FY 1990. Uruguay Round related travel will total $675,000, 46% of the total travel budget. Rent costs for USTR space in Washington and Geneva will total $1,844,000 a 5.3% ($53,000) increase over FY 1990. Costs of equipment leases, phones, utilities and guard services will total $1,370,000, a 5% ($27,000) increase. Other services (primarily computer related contract services) will total $2,906,000 an increase of 3.4% ($42,000). These technical increases are above the inflation allowance and current services.

Adjustments to Base

$202,000 is requested to cover inflation-related adjustments to the base for FY 1991.

BRIEF EXPLANATION OF NET CHANGES

11.1 - Full-time Permanent (FTP) (+435k)

Pay increases (+435k).

11.3 - Other Than FTP (+65k)

Pay increases for support staff,(+15); Full-time Temporary (1) (+30k); SISER's (2) (+20k).

11.5 - Other Personnel Compensation (+49k)

Amount of overtime for staff increased to support additional workload related to Uruguay round, Omnibus Trade Law (+49k).

11.8 - Special Personnel Compensation (+8k)

Reimbursable Details pay increases (+8).

12.1 - Personnel Benefits (+121k)

This increase in benefits is for pay adjustments (+121).

21.0 - Travel (+67k)

This will cover rising cost for foreign travel and additional trips needed in support of the Uruguay Round, including the wind down, which will continue at least through the third quarter of FY 91 (+25k); and inflation at 3% (+42k).

22.0 - Transportation of Things (+2k)

This increase is for inflation at 3% (+2k)

23.1 - Rent GSA (+36k)

Increase for U.S. office by GSA inflation at 3% (+36k).

23.2 - Rent Other (+60k)

This reflects price increase for additional rent charges for the Botanic Building Office space (+43k) and inflation at 3% (+17k).

23.3 - Communication, Utilities, and Miscellaneous (+65k)

Increase to cover price increases to Geneva Residences for utilities (+27k); and inflation at 3% (+38k)

24.0 - Printing & Reproduction (+105k)

Additional cost in support of the Uruguay Round for printing Reports (+100k); and inflation at 3% (+5k).

25.1 - Other services (+96k)

Increases for additional cost for Geneva Residences support increases (+42k); and inflation at 3% (+54k).

25.2 - Representation (+9k)

Additional needs in support of the Uruguay Round (+6k); inflation (+3k).

26.1 Supplies & Materials (+5k)

Increase to cover cost for inflation at 3% (+5k).

31.0 - Equipment (+35k)

Geneva Residences support (+10k); Uruguay Round Equipment support (+25k).

FY 1990/1991 RESOURCE COMPARISON

The following is a comparison of the FY 1990 appropriation with FY 1991 estimates.
(Dollar amount in thousands)

Account Title	FY 1990 APPROPRIATION FTE/FTP	FY 1990 APPROPRIATION AMOUNT	FY 1991 ESTIMATE FTE/FTP	FY 1991 ESTIMATE AMOUNT	Inc. (+) OR Dec. (-) FTE/FTP	Inc. (+) OR Dec. (-) AMOUNT
Salaries & Expenses	156/154	17,778	152/150	18,936	-0-	+1,158

Object Class		Appro. 1990	Appro. 1991	Net Change ($)	Rationale
11.1	Full-Time Permanent (FTP)	7,196	7,631	+ 435	Pay increases
11.3	Other than FTP	470	535	+ 65	Pay increases
11.5	Other Personnel Compensation	302	351	+ 49	Pay increase
11.8	Special Personnel Serv. Pay	360	368	+ 8	Pay increases
12.1	Personnel Benefits	1,599	1,720	+ 121	Pay increases
21.0	Travel and Transportation	1,394	1,461	+ 67	Uruguay Round
22.0	Transportation of Things	73	75	+ 2	Inflation
23.1	Rent - GSA	1,192	1,228	+ 36	Inflation
23.2	Rent - Other (Geneva)	556	616	+ 60	Geneva Price increase & Cicur Room
23.3	Communications, Utilities, and Misc.	1,305	1,370	+ 65	Geneva Residence Inflation
24.0	Printing & Reproduction	162	267	+ 105	Uruguay Round Reports

Object Class	Appro. 1990	Appro. 1991	Net Change ($)	Rationale
25.1 Other Service	2,810	2,906	+ 96	Inflation & CFTA
25.2 Representation	89	98	+ 9	Uruguay Round, Bilateral contacts
26.0 Supplies & Materials	155	160	+ 5	Inflation
31.0 Equipment	115	150	+ 35	Computer Support for Uruguay Round, & Geneva upgrade
	-------	-------	-------	
USTR-TOTALS	17,778	18,936	+1,158	

Summary of Requirements

Appropriation: Salaries and Expenses	FTE/FTP	AMOUNT
Summary of Adjustments and Changes:		
FY 1990 - Total Year Estimate	156/154	17,778
Net Change	- 4	+ 1,158
FY 1991 Estimate	152/150	18,936

ORGANIZATIONAL UNITS

RESPONSIBILITIES, GOALS, ACCOMPLISHMENTS AND STAFFING

Office of the U. S. Trade Representative (USTR)

RESPONSIBILITIES

The U.S. Trade Representative (USTR) is responsible for the implementation of the Trade Agreements Act of 1979; developing and coordinating U.S. international trade, commodity and direct investment policy; and leading or directing negotiations with other countries on such matters. The USTR acts as the principal adviser and spokesman for the President on trade policy. The USTR is responsible for establishing policy, resolving agency disagreements, and developing issues and recommendations for Presidential decision.

POSITIONS

Ceiling
U. S. Trade Representative (Ambassadorial rank)
Chief of Staff
Confidential Assistant
Confidential Secretary
Executive Secretary
Special Assistant to Chief of Staff

Non-Ceiling
President's Commission on Executive Exchange (PCEE)

Office of the Counselor

GOALS/RESPONSIBILITIES

- Represent the United States in trade related meetings of the Organization for Economic Coorporation and Development (OECD), and coordinate U.S. trade policy positions at the OECD, with the objective of advancing U.S. trade policy goals. Coordinate the preparation of briefing papers on trade issues for the annual Economic Summit.

- Maintain liaison with public research institutes and the academic community, with the objective of stimulating and facilitating research on key trade policy issues confronting the Administration.

- Provide analytical and conceptual support for the Uruguay Round of Multilateral Trade Negotiations, particularly in the area of safeguards.

- Speak to public groups in the United States and abroad on trade policy issues and the Uruguay Round, with the objective of advancing public understanding and support of U.S. trade policy goals and positions.

ACCOMPLISHMENTS

- Successfully lead effort in the OECD to advance U.S. trade policy goals and to deflect criticism of U.S. policy actions.

- As a result of contacts with public policy research institutes and the academic community, was successful in generating trade policy research useful to the trade policy development process.

- Advanced public understanding of U.S. trade policy goals and positions through speeches and articles.

- Advanced U.S. policy objectives in the negotiations on safeguard issues, as the Policy Coordinator on safeguards.

POSITIONS

Ceiling
Assistant U.S. Trade Representative
Secretary

Office of the General Counsel

GOALS/RESPONSIBILITIES

- The General Counsel's office advises the United States Trade Representative, her Deputies and the agency's staff on all areas of international trade law and agency responsibilities. Also, the office has primary responsibility for the following areas:
  - ensures that all actions of the United States related to trade are analyzed for conformity with U.S. rights and obligations under international agreements affecting trade;
  - develops the Administration's positions on trade legislation;
  - ensures that all actions of the agency and its staff conform with laws of the United States;
  - carries out dispute settlement proceedings under the GATT;
  - develops and carries out U.S. antidumping and subsidy/countervailing duty policy;
  - chairs the interagency Section 301 Committee and, in coordination with other appropriate USTR offices, conducts investigations and recommends action to the Trade Representative;
  - coordinates implementation of the "Super 301" process of identifying trade liberalization priorities;
  - coordinates the Title VII identification of foreign government procurement barriers;
  - drafts texts of bilateral and multilateral agreements negotiated by USTR, including instruments and agreements to conclude the Uruguay Round;

- reviews section 337 unfair import trade cases; and
- advises and carries out agency responsibilities regarding ethics, conflicts of interest, financial disclosure, requests for information under the Freedom of Information and Privacy acts, and studies by the General Accounting Office.

ACCOMPLISHMENTS

Section 301 Program

- o Consultations with Argentina, in response to a petition from the Pharmaceutical Manufacturers Association (PMA), resulted in willingness by Argentina to modify its pharmaceutical product registration procedures and to address constructively the issue of patent protection for pharmaceutical product.
- o Obtained commitments from Japan to take measures to remove barriers to the procurement of architectural, engineering and construction-related services and to negotiate further on construction issues in 1990.
- o Concluded agreement with the European Community to eliminate its export restrictions on copper scrap, in response to a petition filed by the Copper and Brass Fabricators Council, Inc.
- o Took final steps to implement an agreement reached with the European Community (EC) as a result of the favorable GATT panel ruling which the United States obtained on EC tariff preferences on citrus fruits.
- o Concluded an agreement with the EC under which the EC reduced its 1989-90 subsidies on canned peaches and pears, and modified its regulations for future years, clarifying the terms of an agreement originally reached with the EC in 1985.
- o Reached agreement with Argentina with respect to Argentina's fees on air courier shipments, and providing for non-discriminatory treatment of foreign air couriers in Argentina.

- Monitored Korea's practices and policies related to obtaining and enforcing patent rights, and held follow-up discussions with Korea.

- Obtained a favorable ruling from a dispute settlement panel under the U.S.-Canada Free-Trade Agreement regarding landing requirements imposed by Canada on salmon and herring.

- In response to a petition filed by the American Soybean Association, obtained a favorable ruling from a dispute settlement panel under the General Agreement on Tariffs and Trade (GATT) regarding EC processing and production subsidies on oilseeds and animal feed proteins.

- In response to a petition filed by the American Meat Institute, obtained a favorable ruling from a dispute settlement panel under the GATT regarding Korean import restrictions on beef.

- In response to a petition filed by the Wine Institute and Association of American Vintners, concluded an agreement with Korea in which Korea agreed to provide foreign manufacturers of wine and wine products non-discriminatory and equitable access its market.

- In response to a petition filed by the PMA, took retaliatory action against Brazil for its lack of patent protection for pharmaceuticals.

- Took retaliatory action against the EC in response to its animal hormones directive that adversely affects meat exports to the EC. Established U.S.-EC task force that adopted an interim measure that allows U.S. producers of meat not treated with hormones to export to the EC.

- In response to petitions, initiated investigations of Thailand's import restrictions on cigarettes, and of Norway's allegedly discriminatory procurement of electronic highway toll systems.

- Under "Super 301" provisions of the 1988 trade legislation, self-initiated six investigations of priority practices: Brazil's import licensing regime, Japan's procurement of satellites and of super-computers, Japanese barriers to imports of forest products, and India's restrictions on investment and insurance.

Dispute Settlement (non-301)

- o Defended U.S. interests in GATT dispute settlement proceedings involving U.S. dairy imports, countervailing duties on footwear from Brazil, retaliatory duties on products from Brazil and the EC, procedures under Section 337, the treatment of sugar under the U.S. tariff headnote, sugar import restrictions under Section 22 of the Agricultural Adjustment Act, and restrictions on imports of pipe and tube from Sweden.
- o Defended U.S. interests in dispute settlement proceedings under the U.S.-Canada Free Trade Agreement involving plywood and wool.
- o Represented U.S. interests in complaints brought by the United States against EC subsidies to Airbus, EC apple import quotas, Norwegian apple and pear import restrictions, Canadian countervailing duties on corn, Canadian import restrictions on ice cream and yogurt, Indonesian quantitative restrictions, and the EC broadcast directive. Obtained favorable rulings in the cases on EC apples, Norway apples, and Canada ice cream and yogurt.

Uruguay Round

- o Coordinated and led negotiations on GATT Dispute Settlement and, until July 1989, led negotiations on Intellectual Property Rights, obtaining significant successes in Mid-Term Review.
- o Drafted texts of proposed agreements on investment measures, services, and intellectual property rights for Uruguay Round negotiating groups on those areas.

Legislation

- o Assisted in obtaining passage of legislation to bring the United States into conformity with its GATT obligations with respect to the Superfund tax.
- o Drafted several bilateral steel agreements, and assisted in obtaining passage of steel legislation.

Section 337 Program

- o Reviewed and recommended appropriate action in 7 cases.

POSITIONS

Ceiling
General Counsel
Senior Deputy General Counsel
Deputy General Counsel
Attorney-Advisors (7)
Part-time Attorney-Advisor (6/10)
Paralegal Specialist
Secretaries (4)
Consultant (1/10)

Non-Ceiling
Non-Reimbursable Detail

Chief Textile Negotiator

GOALS/RESPONSIBILITIES

- Serve as the principal advisor to the President and the Cabinet to formulate, coordinate, negotiate, and implement U.S. textile trade policy.
- Negotiate comprehensive textile agreements with China, Hong Kong, India, Pakistan, Philippines and Mexico, which are scheduled to expire during FY 1991, and which together cover about $8 billion in trade annually.
- Negotiate eleven other bilateral agreements that will expire during FY 1991, including those with Singapore, Turkey, Malaysia, Macau, Uruguay, Peru and Hungary. These agreements cover U.S. imports of $2 billion in textile and apparel products annually from these countries combined.
- Monitor imports from all foreign suppliers and enter into quota negotiations as appropriate to ensure that U.S. markets for textile and apparel products are not disrupted.
- Intensify and conclude, according to an agreed schedule, multilateral negotiations in the GATT Uruguay Round textiles group. Negotiations in Geneva could form the basis for eventual integration of textiles trade into GATT under strengthened disciplines. Develop policy guidance for and conduct negotiations on textile and apparel tariff and non-tariff barriers in Uruguay Round.
- Negotiate the future of the Multifiber Arrangement, the GATT agreement which covers textile and apparel trade. The MFA regulates trade in textiles and apparel among 40 countries, and covers trade of over $70 billion annually, and U.S. trade accounting for an estimated $20 billion annually.
- Provide USG representation for all dispute settlement cases involving the United States before the Textiles Surveillance Body.

- Work with Congress, governments in Latin America and the domestic textile/apparel industry to enhance the Caribbean Basin Initiative, Mexico Special Regime and the President's Andean Initiative for textiles. These programs encourage economic growth and political stability in Central America, Mexico and the Andean countries by providing special quota access for apparel products assembled there from U.S. fabrics.
- Participate in the development of U.S. policy on key international trade issues, such as the USG response to European 1992 integration and trade agreements with Eastern Europe to ensure that textile trade policy issues are addressed.
- Develop policy for implementation of all bilateral agreements, with special emphasis on major agreements negotiated in 1989 and 1990, including agreements with Taiwan and Korea.
- Lead development of the Administration's response to Congressional initiatives substantially affecting textile and apparel trade.
- Maintain active dialogue with the domestic industry, labor unions, Congress, importers, retailers, and other groups to ensure broad-based support and/or understanding of these actions.
- Promote the structural adjustment of the domestic textile and apparel industries.
- Conduct negotiations to eliminate foreign barriers to U.S. exports of textile and apparel products.

ACCOMPLISHMENTS

- Renegotiated expiring bilateral textile agreements covering textile and apparel imports worth $7.8 billion or 3.4 billion square meters equivalent (about 29 percent of our total textile and apparel imports by value and volume terms) with such suppliers as Taiwan, Korea, Japan, Bangladesh, Egypt, Peru, Poland, Nepal, Czechoslovakia, Yugoslavia, El Salvador, Haiti and Trinidad and Tobago. As a result of the renegotiated agreements with Taiwan and Korea, limits for each country were reduced by about five percent. We also reduced significantly certain quotas in our agreement with Japan. Smaller suppliers, particularly in the Caribbean, will benefit from increased access as a result of these negotiations.

- Negotiated new textile agreements with the United Arab Emirates, the Soviet Union, Argentina and Guatemala; these countries account for textile and apparel imports worth nearly $300 million.
- Worked closely with interested parties to develop mutually beneficial textile trading relationships with Andean countries to provide incentives for those countries to decrease reliance on narcotics production and trafficking.
- Initiated negotiations to review the provisions of the U.S. - Mexico bilateral textile agreement to liberalize that agreement so as to allow for increased textile and apparel trade between our two countries to reflect of market opening measures undertaken by Mexico in textiles and apparel.
- Negotiated solution to long-standing problem of classifying, and charging to quota, certain hand-loomed made-up goods (e.g., sheets and pillowcases) imported from India.
- Negotiated changes to U.S.-Pakistan bilateral textile agreement.
- Initiated a major review of our textile and apparel trade policy with the domestic industries to refine our approach to the Uruguay Round negotiations to bring textile trade back into the GATT under a strengthened system.

POSITIONS

Ceiling
Chief Textile Negotiator (Ambassadorial rank)
Assistant Chief Textile Negotiator
Textile Negotiator
Secretaries (2)

Non-Ceiling
Reimbursable Details (2)

Office of the Deputy USTRs

GOALS/RESPONSIBILITIES

o Assure that:

- Sound and well-articulated U.S. trade policies are fully understood by U.S. businessmen and legislators, as well as foreign industry and government representatives.
- Positions on specific trade issues reflect U.S. trade policies and the national interest.
- Trade negotiations result in increased market access for U.S. businesses and the elimination of unfair trade practices wherever possible. Retaliatory solutions to trade problems are viewed as "second best" solutions and are utilized infrequently.
- The U.S., by example and through the GATT, supports and facilitates the evolution of a free and fair international trading system.
- Such new rounds of GATT negotiations as may be carried out yield valuable market access and trade system rules improvements.
- U.S. trade laws fully support the achievement of the objectives listed below.
- USTR, as an organization, is well managed and that its personnel have ample opportunities to develop and use skills and expertise of value to the organization.

ACCOMPLISHMENTS

o Detailed lists of accomplishments, consistent with the goals set by the Deputy USTRs for Trade Policy and Negotiations and Management, are to be found in the presentations submitted by USTR's individual operating units.

POSITIONS

Ceiling
Deputy U.S. Trade Representatives-Washington (Ambassadorial rank) (2)
Confidential Assistants (2)
Secretary

Office of the Chief Economist

GOALS/RESPONSIBILITIES

- Responds to direct requests from the U.S. Trade Representative, her Chief of Staff and Deputies for economic analytical/trade policy support.
- Assists Trade Representative, Chief of Staff and Deputies in their coordination of overall U.S. trade policy development and in developing U.S. trade positions in international fora.
- Monitors and analyzes factors underlying U.S. trade performance, both domestic and foreign macroeconomic factors and industry-specific factors affecting sectoral competitiveness, for use by the Trade Representative and staff in developing policy and negotiating.
- Reviews internal option papers and other memoranda to the Trade Representative for consistency with economic rationality and broad U.S. economic interests.
- Manages an in-house economic consulting service for other USTR units (answering ad hoc requests for technical advice as well as providing recurring economic analytical assistance in areas such as Section 301 trade damage estimates).
- Coordinates interagency economic analytical support for U.S. trade policy and negotiations and for Congressional reporting requirements (e.g., Annual Trade Report, Annual Trade Projections Report and the National Trade Estimates Report).
- Represents USTR views to various interagency and private sector groups dealing with trade-related economic issues and policies.
- Develops analytical materials used by the U.S. Trade Representative and her senior management staff to explain the economic foundations of the Administration's trade policies; makes presentations based on such materials to congressional staff members, the press, business, the public and foreign representatives.
- Develops occasional "think pieces" on various general issues related to trade policy (e.g. trade policy and economic security, growth of inward direct investment).

ACCOMPLISHMENTS

- Provided numerous economic analyses to support USTR/interagency trade policy objectives, (e.g., U.S./foreign macroeconomic policies and U.S. trade deficit correction; Japanese trade surplus correction, EC 1992 issues, perestroika and U.S./Soviet trade relations, steel quota extension and international consensus, country profiles for bilateral negotiations, U.S. position on subsidies in the Uruguay Round, U.S. review under GATT "Trade Policy Review Mechanism," interagency cost estimates in Section 301 cases on EC oilseeds, Korea beef and Canadian fish cases.)
- Developed various materials and briefings to facilitate the USTR's management transition at the beginning of Administration.
- Worked closely with USTR management and interagency EPC working group in a general review of U.S. trade policy.
- Wrote first chapter of President's Annual Report on the Trade Agreements Program; coordinated economic analytical input in this report and the National Trade Estimates Report; wrote part of and coordinated with Treasury on the joint Treasury/USTR Trade Projections Report to the Congress.
- Developed economic analytical responses for the U.S. Trade Representative to various press and foreign characterizations of U.S. trade policy as "protectionist."
- Began initial planning for the analysis of Uruguay Round results
- Provided regular economic analytical advice, guidance and information to other USTR units.
- Provided in-house consulting service for USTR and her Deputies.
- Coordinated closely with other agencies on various trade-related economic analyses, (e.g. with the CEA on the President's Annual Economic Report; with various agencies on product-specific trade issues and trade damage estimates; with EPC working groups on the quality of economic statistics and U.S. saving/investment performance, and with various agencies on coordinating principals positions at various cabinet-level meetings.

- Fulfilled a number of public speaking engagements with presentations geared to explaining the Administration's trade policy, increasing understanding of economic underpinnings of U.S. trade policy and macroeconomic foundations of trade deficit. Numerous contacts/presentations were made to congressional staffs, the press, business and academic groups (including the National Academy of Science), other agencies of government.

POSITIONS

Ceiling
Chief Economist
Deputy Chief Economist

Policy Coordination

GOALS/RESPONSIBILITIES

- Provide statutory policy coordination on both an intra- and interagency basis.
- Manage the operations of the interagency Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC) and its 60 subcommittees.
- Oversee the preparation of USTR positions for other Cabinet-level bodies such as the Economic Policy Council.
- Manage and coordinate the flow of information, policy recommendations and analyses to the USTR and the Deputy USTRs.
- Serve as Executive Secretariat on all policy level-issues including coordination of responses to correspondence; and also briefing and other materials for the USTR and Deputy USTRs in preparation for high-level consultations in both the United States and abroad.
- Provide other USTR units with adequate and consistent guidance on requests from the USTR and the Deputy USTRs and feedback on their views and decisions.
- Provide support for the USTR Senior Staff and ensure there is proper internal coordination on actions taken under U.S. trade law.
- Direct and coordinate the preparation of the National Trade Estimate Report on Foreign Trade Barriers, the USTR's Annual Report and the President's National Trade Agenda Report.
- Prepare quarterly Management by Objectives (MBO) Reports as required by the President's MBO system.
- Provide staff and logistical on-site support for the USTR at Uruguay Round Ministerial meetings.

ACCOMPLISHMENTS

- Provided administrative and policy support for all meetings of the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC). Supervised preparation of USTR positions for meetings of the Cabinet-level Economic Policy Council.

- Provided support for the USTR and Deputy USTRs by managing the flow of briefing papers and information to the USTR and Deputy USTRs and expedited the response to staff to ensure their coordinated planning and operations. Followed-up on implementation of decisions.

- Obtained overall USG position on over 200 trade issues through the use of the interagency process including meetings of the TPRG and the TPSC.

- Prepared and published the National Trade Estimate Report on Foreign Trade Barriers, the USTR Annual Report and the President's National Trade Agenda Report.

- Prepared USTR's first report for the Presidential MBO system. The report stated the Administration's international trade objective, outlined USTR's strategy for achieving the objective, and identified critical milestones to measure progress in reaching the objective.

- Provided administrative and policy support for the Uruguay Round Ministerial Meeting (Mid-term Review) in Montreal.

- Organized public hearings and invited written comments on Uruguay Round: Agriculture and Tropical Products, Uruguay Round: Foreign Tariffs and Non-Tariff Measures and GSP Annual Review. Also invited comments from the private sector on several 337 cases, the President's steel program and subsidies. Provided copies and reading files for the public.

POSITIONS

Ceiling
Executive Director for Policy Coordination and Chair of the TPSC
Staff Assistant and Secretary of the TPSC
Special Assistant to Executive Director
International Economist
Secretary

Non-Ceiling
Non-Reimbursable Detail

Canada & Mexico

GOALS/RESPONSIBILITIES

Mexico

- Seek continued liberalization of Mexico's trade regulations to ensure access for U.S. suppliers of goods and services, including liberalization of rules on foreign investments and intellectual property.
- Cooperate with Mexican officials in seeking a solution to the range of economic troubles that are associated with the Mexican debt (which, in 1989, totaled approximately $100 billion).
- Pursue U.S. trade issues with Mexican officials under the 1987 Framework Understanding (including issues concerning electronics, transportation (trucking and busing), insurance, agricultural licensing, intellectual property protection (patents, trademarks, trade secrets, copyrights) and investment.
- Initiate negotiations with Mexican officials under the 1989 Understanding on Trade and Investment Facilitation Talks (TIFT) (currently under study are standards and petrochemicals).

Canada

- Coordinate U.S. implementation of U.S.-Canada Free Trade Agreement (FTA). Submit to Congress the statutorily required biennial report on the status of FTA ongoing negotiations and implementation, and on the effectiveness of the operation of the FTA
- Monitor Canadian implementation of, and compliance with the FTA and work actively with U.S. private sector to educate them on the benefits and opportunities of the new trading regime.
- Defend U.S. trade rights under the FTA dispute settlement mechanism in cases as required, e.g., lobsters, fruits and vegetables, alcoholic beverages and poultry.

- o Coordinate and conduct further bilateral negotiations called for under the FTA including accelerated tariff reductions, higher rule of origin for autos, subsidy discipline, standards harmonization, and the expansion of the intellectual property rights, services and investment provisions of the FTA.
- o Pursue U.S. trade issues outside the FTA including those concerning film distribution, access to Canadian fish, publishing, dairy, sugar and patent protection.
- o Implement and monitor the results of the Uruguay Round Negotiations, negotiating changes to the FTA as appropriate.

ACCOMPLISHMENTS

Mexico

- o Signing of a bilateral understanding that mandates new "Trade and Investment Facilitation Talks", and November decision to study the areas of standards and petrochemicals.
- o Mexican revision of its foreign investment rules to open 60% of its economy to 100% foreign investment up to $100 million.
- o Holding of the third plenary meeting under the U.S.-Mexico Framework Understanding to review a range of trade and investment issues.
- o USTR chairmanship of the U.S.-Mexico Binational Commission Subgroup on Trade and Investment
- o Mexican deregulation of domestic trucking services, liberalization of the motor vehicle and insurance industries, and elimination of agricultural import licenses
- o Led interagency team in discussions with the Mexican Government under the "Framework Understanding".
- o Secured Mexican agreement to resolve outstanding issues involving steel and textile quotas and the removal of Mexican nontariff trade barriers on alcoholic beverages and plant seeds.

Canada

- Coordinated the entry into force of the FTA, including the preparation of the domestic regulations and the drafting of the report to Congress on Canadian compliance with the terms of the FTA.
- Coordinated interagency monitoring of the Canadian elections and subsequent parliamentary approval of the FTA.
- Organized the initial meeting of the FTA Trade Commission, co-chaired by Ambassador Hills, and carried out the establishment of the five working groups created by the Commission.
- Developed and executed the interagency work plan for the FTA tariff acceleration exercise and negotiated the provisional agreement with the Canadians to accelerate tariff elimination on over 400 products with a trade coverage of $6 billion.
- Initiated and successfully defended U.S. trade rights within the FTA dispute settlement mechanism's first case concerning Canadian landing requirements on salmon and herring.
- Successfully implemented the initial liberalizations of the FTA, including the immediate elimination of tariffs on trade valued at over $3 billion, establishment of a predictable and transparent rule of origin, the reduction of discriminatory practices against U.S. alcoholic beverages, the easing of restrictions on financial services, and the sharp reduction of Canadian screening of proposed acquisitions by U.S. investors.

POSITIONS

Ceiling
Assistant U.S. Trade Representative for North American Affairs
Principal Deputy Assistant U.S. Trade Representative for North America
International Economist - Director for Canadian Affairs
Program Assistant
Secretary

Non-Ceiling
Non-Reimbursable Detail
Stay-in-School Student

Europe and the Mediterranean

GOALS/RESPONSIBILITIES

- Advance the interests of U.S. exporters and investors in the markets of Western Europe, Eastern Europe (including the USSR), the countries of the Mediterranean and the Middle East.

- Support U.S. negotiations with these countries in the Uruguay Round of multilateral trade negotiations.

- Chair the interagency task force on the completion of the EC internal market; identify policy issues arising out of this exercise and develop - in consultation with the private sector - appropriate U.S. policy responses.

- Monitor EC-EFTA development of a "European Economic Space" to ensure that U.S. interests are not discriminated against as the two grouping further integrate their trading systems.

- Exercise a lead role in regular U.S. consultations with the EC (High Technology Working Group); Italy (bilateral Aerospace Working Group) and the Gulf Cooperation Council.

- Oversee implementation of the U.S.-Israel Free Trade Area Agreement and agreements with the European Community related to trade in citrus, canned fruit and pasta.

- Work to effect liberalization of European markets for telecommunications products and services in the context of the effort mandated by the 1988 Omnibus Trade and Competitiveness Act.

- Work to identify problem areas and negotiate improved intellectual property rights protection with countries in the area.

- Complete negotiation of bilateral trade agreements with Czechoslovakia, East Germany and Bulgaria.

- o Monitor implementation of U.S.-Soviet Trade Agreement and U.S.-Polish business and economic agreement.

- o Complete negotiation of bilateral investment or business and economic agreements with the Soviet Union and all Eastern European countries including Yugoslavia.

- o Complete review of the "normalization" of our trade and investment relations with Eastern European countries bilaterally and under GATT.

ACCOMPLISHMENTS

- o Coordinated interagency development of initial USG policy papers on EC internal market initiative issues as well as preparation and distribution of public discussion documents on EC program issues.

- o Participated in more than 30 public awareness seminars and conferences and Congressional briefings on EC internal market initiatives.

- o Led and/or participated in delegations meeting with EC and other European officials to discuss USG policy concerns regarding EC internal market initiatives.

- o Monitored EC provisional implementation of U.S.-EC Citrus Agreement.

- o Monitored EC administration of Portuguese oilseed quota, and coordinated implementation of U.S. commitment to relax U.S. quotas.

- o Prepared the USTR for annual U.S.-EC Ministerial Meetings held in Brussels each December, and coordinated preparation of the trade issue papers for those meetings.

- o Coordinated and prepared bilateral briefing papers for the Quadrilateral Meetings (Ministerial level), which were held semi-annually and which dealt with the full range of world trade issues.

- o Conducted regular consultations with the senior EC Commission officials, with officials of EC Member States, and with officials of the non-EC countries of Western Europe on trade issues.

- Led U.S.-EC telecom plenary discussions in Washington and coordinated U.S.-EC telecom working groups.

- Participated in U.S.-Romanian Joint Economic Commission, U.S.-Yugoslavia Economic Council, and U.S.-USSR Joint Commercial Commission Subcommittee.

- Assured effective implementation of U.S.-Israel Free Trade Area; achieved major changes in Israeli tax and import licensing systems which had operated to discriminate against U.S. exports.

- Prepared trade study on and participated in preliminary economic discussions with Gulf Cooperation Council.

- Through a timely intervention, achieved a one-year delay of an EC Commission ban of the hormone BST.

- Reached agreement regarding Swedish seasonal import restraints on apples and pears.

- Led U.S. delegation at U.S.-EC High Tech Group meetings on biotech, HDTV, and access to government-sponsored R&D programs.

- Monitored and conducted reviews of U.S.-EC Pasta Settlement.

- Coordinated U.S. response to and led consultations with EC regarding EC violation of U.S.-EC Canned Fruit Agreement, resulting in an exchange of letters clarifying EC obligations under the Agreement.

- Conducted meeting of U.S.-Italy Aerospace Working Group.

- Led interagency development of a proposed new trade agreement between U.S.and the Gulf Cooperation Council.

- Led U.S. delegation in tariff negotiations with Tunisia regarding Tunisian accession to the GATT.

- Led U.S. delegation in ongoing session with Egypt, Turkey and Saudi Arabia regarding adequate intellectual property protection in these countries.   Monitored enactment of new patent and copyright law in Saudi Arabia.

- o Reached agreement regarding Finnish and Norwegian seasonal import restraints on apples and pears, and oversaw implementation of Swedish elimination of seasonal import restraints on apples and pears.
- o Coordinated U.S. 301 investigation of Norwegian Government's alleged intervention in a procurement involving toll collection equipment sold by a U.S. firms.
- o Participated in ITC investigation of a patent infringement case brought by a U.S. firm against a Finnish maker of cellular telephones.

POSITIONS

Ceiling
Assistant U.S. Trade Representative
Deputy Assistant U.S. Trade Representative
Director-Middle East and the Mediterranean
Director - EC Affairs
Director, Eastern European Affairs
Secretaries (2)

Non-Ceiling
Reimbursable Detail
Presidential Management Intern

Latin America, the Caribbean, Africa, Commodity Policy and Agreements, and LDC Affairs

GOALS/RESPONSIBILITIES

- Obtain increased liberalization of import and investment regimes of Latin American, Caribbean and African countries.
- Participate in Venezuela's GATT accession negotiations.
- Lead negotiations under section 301 investigations pertaining to countries under this unit.
- Minimize use of export subsidies, performance requirements, countertrade, tariffs and non-tariff barriers by Latin American, Caribbean and African countries.
- Strengthen protection of American intellectual property rights (trademarks, copyrights, patents) in trade involving Latin American LDCs.
- Continue consultations with the Governments of Costa Rica, El Salvador, Guatemala and Honduras as they prepare for accession to the GATT.
- Take a lead role in shaping and implementing U.S. objectives regarding the Caribbean Basin Initiative, including the Administration; response on legislation to extend and enhance the program.
- Manage trade issues within the North/South dialogue in a manner that will protect U.S. interests and assist in formulating a U.S. negotiating strategy for the Uruguay Round that will increase LDC integration into the GATT system, including increasing adoption by developing countries of greater GATT discipline and obligations. Lead LDDC Initiative in the Uruguay Round.
- Seek Latin American, Caribbean and African constructive participation in achieving U.S. Uruguay Round trade and investment objectives.
- Direct U.S. commodity policy for both mineral and non-mineral commodities and represent the U.S. in multilateral commodity discussions and agreements.

- Direct U.S. participation in UNCTAD regarding trade and commodity issues in a manner that will protect U.S. interests.
- Represent the U.S. at trade meetings of the Organization of American States.
- Coordinate U.S. participation in, and lead U.S. delegations to, the tropical products negotiations in the Uruguay Round.
- Implement President's Andean Trade Initiative.

ACCOMPLISHMENTS

- Successfully concluded a section 301 investigation of Brazil's informatics policy on October 6, 1989. During the course of the four-year investigation, Brazil extended explicit copyright protection for computer software, provided increased market access for foreign computer software following the implementation of the software law, and improved the clarity and responsiveness of its administrative functions regarding the implementation of its informatics policies that affect foreign trade.
- Led negotiations with Brazil following President Reagan's decision to impose sanctions against Brazil pursuant to a section 301 investigation on pharmaceutical patents. Regular bilateral discussions have resulted in progress in how Brazil registers pharmaceutical products. In addition, participated in the development of the USG response to Brazil's challenge to our sanctions under the GATT dispute settlement procedures.
- Led negotiations with Chile concerning patent protection for pharmaceutical products. Successfully engaged in constructive negotiations with GOC to shape a draft law being prepared by the Chilean Ministry of Economy prior to its submission of the draft law to the GOC's legislative body. Negotiations continue. These negotiations followed the filing and subsequent withdrawal of a section 301 petition by the U.S. pharmaceutical industry.
- Successfully launched a "Super 301" investigation concerned with certain policies stemming from Brazil's import licensing regime. Led negotiations with Brazil in which the USG explained its concern and stated its objectives.

- Successfully launched a bilateral working-level trade dialogue with Brazil. Have used this avenue of communication to pursue USG interests on a range of bilateral and multilateral issues, including our "Priority Watch List" action agenda under "Special 301" as well as our "Super 301" and other matters.

- Led negotiations regarding section 301 case against Argentina's differential export tax for soybeans and soybean products. Argentina agreed to reduce the differential and to hold consultations regarding further reductions. Also conducted negotiations regarding section 301 investigation of Argentina's tax and harassment of foreign air couriers. In this regard, the tax on air couriers has been reduced, but negotiations continue.

- Led negotiations pursuant to a section 301 investigation of Argentina's lack of patent protection for pharmaceuticals. Sufficient progress was achieved and the U.S. industry withdrew its 301 petition.

- Coordinated with Canada regarding its challenge in the Standstill and Rollback Committee on Law of Similars and participated in Brazil's GATT balance of payments consultations.

- Testified on matters of interest to the Congress involving Latin American relations, i.e., trade/debt.

- Coordinated interagency analysis of and prepared Ambassador Hills's testimony (on behalf of the Administration) on H.R. 1233, legislation intended to extend and enhance the Caribbean Basin Initiative (CBI). Consulted with private sector trade associations and the Caribbean countries on Administration; positions.

- Developed and implemented President's Andean Trade Initiative.

- Participated intensively in preparations for President's Cartagena Drug Summit.

- Prepared additional Administration proposals for presentation to the Congress on measures to enhance the CBI.

- Consulted with the Eastern Caribbean states on approaches for increasing their participation in the CBI, including administrative actions by the U.S. Government to promote tourism in this part of the Caribbean, which tends to attract fewer investment projects than some of the larger, more advantageously situated islands.

- Participated in conferences and seminars in the U.S. and the Caribbean to promote the Caribbean Basin Initiative.

- Consulted with the Governments of Costa Rica and El Salvador on these countries' intended accession to the GATT. Prepared questions on Costa Rican trade regime for the first GATT working party meeting in Geneva on their accession. Prepared list of tariff items on which the U.S. requested concessions from Costa Rica as part of its accession to the GATT.

- Participated in Venezuela's GATT accession negotiations.

- Assisted in the formulation of possible economic and trade sanctions for application against the Noriega regime in Panama. This culminated in April 1988 in Panama's suspension for eligibility, until further notice, under the CBI and GSP programs.

- Developed and coordinated interagency analysis on the possible use of "trade credits" in the Uruguay Round. Such credits could be extended to LDCs as one way to "bind" in the GATT unilateral trade-liberalizing actions which developing countries have taken under World Bank, IMF or other sectoral programs.

- Assisted in the formulation of a broad negotiating strategy toward the developing countries in the Uruguay Round to increase their integration into the international trading system and to encourage LDCs to undertake increased GATT obligations.

- Encouraged African participation in New Round negotiations through speeches, bilateral discussions, participation in African trade and investment mission briefings.

- Represented the U.S. Government at the International Coffee Organization (ICO) regarding the International Coffee Agreement (ICA). Forcefully protected U.S. interests, including negotiating several substantial improvements in the operation of the ICO. Succeeded in demonstrating U.S. willingness to negotiate a new ICA.

- Represented the U.S. Government in the OECD High Level Group on Commodities which serves to coordinate OECD country commodity policies, and led efforts within the group to establish a medium-term work program focusing on issues of market transparency in commodities markets.

- Directed the U.S. interagency effort to determine U.S. positions with respect to the International Tropical Timber Organization.

- Represented the United States at the International Sugar Organization.

- Led negotiations and coordinated interagency deliberations concerning international efforts to form a tin study group.

- Provided staff support on a wide range of commodities including cocoa, iron ore, tungsten, platinum, jute, and olive oil and in developing U.S. positions or guidance.

- Held consultations on Brazil's, Argentina's, Chile's, Colombia's and Peru's positions on the new trade round.

- Led negotiations, coordinated interagency deliberations, and consulted with U.S. industry for the completion of an international study group for copper.

- Assisted the White House in preparing briefing papers for the President's meeting with President Menem of Argentina.

- Represented the U.S. Government at UNCTAD meetings dealing with North-South trade and commodity matters. Led the interagency effort to determine U.S. positions in UNCTAD with respect to trade and commodity issues. This included preparing all position papers for several commodity-specific meetings.

- Prepared guidance for meetings of the UNCTAD Trade and Development Board, including analyses on protectionism and structural adjustment, and ways in which UNCTAD activities (e.g., data base and technical assistance) affect negotiations in the Uruguay Round.

- Initiated consultations with Andean Pact countries in order to influence possible changes in Andean Pact regulations concerning intellectual property rights.

- Organized and led trade bilaterals with Colombia which focused, among other issues, on Colombia's treatment of motion picture royalties, protection of pharmaceutical patents and pricing issues, and restrictions on U.S. wine exports. Major motion picture issues have been resolved.

- Prepared U.S. negotiating positions on tropical products in the Uruguay Round. Led U.S. delegations to negotiating conferences. Concluded Midterm Review package in Montreal.

- Assisted in OECD assessment of broad trade issues affecting the OECD countries' trade relations with developing countries. This included writing and coordinating position papers for meetings, analyzing papers prepared by the OECD Secretariat, and leading delegations.

- Represented the U.S. Government in meetings of the Organization of American States (OAS) to review U.S. trade policies, including the omnibus trade bill and its potential effect on U.S. trade with Latin America and the Caribbean.

- Dealt with various trade, commodity and investment matters involving Sub-Saharan Africa. Tasks ranged from general explanations of U.S. policies, specific bilateral trade disputes, to U.S.-South African relations.

- Co-chaired a White House Task Force Working Group on Sub-Saharan African trade, investment, and private sector matters.

- Provided staff support and materials with respect to U.S. economic sanctions against South Africa, including USTR's implementation of responsibilities under the Comprehensive Anti-Apartheid Act of 1986.

- Prepared U.S. position paper for the UNCTAD Committee on Manufactures.

POSITIONS

Ceiling
Assistant U.S. Trade Representative
Director for Commodity Policy
Director for Brazil and Southern Cone Affairs
Director for Caribbean Basin and North-South Affairs
 (Negotiator for tropical products in the Uruguay Round)
Director for Andean and African Affairs
Secretaries (2)

Non-Ceiling
Non-Reimbursable Detail

Japan and China

GOALS/RESPONSIBILITIES

- Responsible for the development, coordination, and implementation of U.S. trade and trade-related investment policy and negotiating strategy toward Japan and the People's Republic of China (PRC).
- Secure action by Japan and PRC to liberalize import and investment regimes and enhance access to those markets for U.S. manufactured goods, services, and agriculture.
- Secure the strengthening of intellectual property protection in Japan and the PRC. Obtain improved patent process and protection and firm copyright protection for recording artists' rights in Japan. Obtain implementation of undertakings made by PRC to improve patent protection for chemicals and pharmaceuticals, and enact a copyright law and implementing regulations with explicit and adequate protection of software, in PRC.
- Secure Japanese action via the Structural Impediments Initiative to reduce or eliminate trade impeding and distorting effects of structural elements of Japanese economy, including exclusionary and anticompetitive business practices, the distribution system, industrial group structure, land use policies, pricing mechanisms, and savings and investment patterns.
- Secure Japanese action to eliminate barriers to U.S. exports of satellites, supercomputers, forest products, telecommunications, construction equipment and services, processed foodstuffs and food additives, medical equipment and pharmaceuticals, legal services, and other U.S. goods and services.
- Secure full implementation of the Semiconductor Agreement, to ensure that the goals of the agreement on access for U.S. semiconductors to the Japanese market are realized.
- Closely monitor Japanese implementation of other agreements reached, i.e., beef and citrus, "GATT 12 (agreement that covers many agricultural products)," tobacco, leather, NTT.

- Closely monitor Japanese implementation of commitments made in the MOSS negotiations in telecommunications, electronics, forest products, medical equipment and pharmaceuticals, and auto parts.
- Coordinate implementation of the U.S.-PRC Trade Agreement, and other bilateral trade agreements as negotiated, to comply with Congressional direction.
- Closely monitor Chinese compliance with commitments made in the Tungsten Orderly Marketing Agreement and the Agreement in Trade in Commercial Satellite Launch Services.
- Ensure adequate representation of trade, investment and intellectual property concerns in the renegotiation of the Science and Technology Agreement.
- Co-chair U.S. delegation for Structural Impediments Initiative negotiations. Developed U.S. proposals for eliminating Anti-competitive and Exclusionary Business practices which act as barriers to imports in Japan.
- Closely support USG policy coordination and negotiations regarding the PRC's application to become a GATT contracting party.
- Establish and develop trade and commercial relations with the Peoples Republic of Mongolia.
- Review all trade agreements/commitments and trade barriers in Japan and China under Super, Special, and Telecom 301 provisions of 1988 Trade Act.

ACCOMPLISHMENTS

Japan

- Concluded Agreement to improve access to Japanese cellular telephone market.
- Identified super-computers, satellites and forest products as priority products under the 1988 Omnibus Trade Act. Initiated negotiations to consider market access in those sectors.

- Co-chaired U.S. Delegation to Structural Impediments Initiative negotiations. Developed U.S. proposals for eliminating anti-competitive and exclusionary business business practices which act as barriers to imports in Japan.

- Completed Section 301 investigation of construction market. Determined that Japanese practices were not consistent with fully open markets but no further action was warranted since sufficient progress had been made to improving foreign access to the construction market.

- Concluded negotiations on food additives labeling resulting in equality of treatment for chemically synthesized and non-chemically synthesized food additives and improved market access for foods containing chemically synthesized additives.

- Presented testimony before the Senate Subcommittee on Foreign Commerce and Tourism and the Senate Subcommittee on International Trade on Satellites and Structural Impediments.

- Effectively coordinated the U.S.-Japan Trade Committee meeting held in August 1989 to address all current bilateral trade issues.

China

- Successfully negotiated Memorandum of Understanding committing the Chinese to enact a copyright law with provisions for protection of computer software, to amend the patent law to extend the term and expand the scope of protection, and to ensure effective enforcement of intellectual property protection laws. Implementation of this will ensure for the first time copyright protection in the PRC.

- Coordinated and chaired the TPSC China Subcommittee.

- Played a key role both in bilateral consultations with the Chinese and in the China GATT Working Party on China's accession to the GATT.

- Played a key role in the successful negotiation with the PRC of a trade agreement on Commercial satellite launch services. Will play a key role in the monitoring of the agreement and preparations for annual consultations.

- Plays a key role in consultations with PRC to resolve problems in implementing agreement on imports of tungsten from China.

- o Represented USTR in meetings of Joint Commission on Commerce and Trade (JCCT) and led several working groups.
- o Played key role in the negotiation of an intellectual property (IPR) annex to the U.S.-China Science and Technology Agreement.

POSITIONS

Ceiling
Assistant U.S. Trade Representative
Deputy Assistant U.S. Trade Representative
Director, China Affairs
Secretaries (2)

Non-Ceiling
Non-Reimbursable Detail
Reimbursable Detail
White House Fellow
Council on Foreign Relations Fellow

Office of Asia and the Pacific

GOALS/RESPONSIBILITIES

- Achieve trade and investment liberalization commitments from Korea and Taiwan that will result in their de facto graduation to developed country status by the end of 1992.
- Implement the ASEAN-U.S. Initiative (AUI), with concrete liberalization measures on a reciprocal basis.
- Implement the U.S.-Philippines Trade and Investment Facilitation Arrangement (TIFA) as a means of promoting a market-oriented trade and investment solution to the Philippines' development problems.
- Implement tariff and NTB commitments obtained in the Uruguay Round with Korea, Thailand, Malaysia, Indonesia, the Philippines, Singapore, Australia, New Zealand, India and Pakistan.
- Obtain acceptance by the non-signatories in the region of the existing GATT codes on subsidies, government procurement, import licensing, product standards, and customs valuation.
- Obtain Taiwan's full implementation of all GATT and Uruguay Round obligations, either through GATT accession or parallel bilateral agreement.
- Ensure that GATT members in the region accept the maximum possible of the new Uruguay Round obligations, especially in services, agriculture, investment and intellectual property.
- Ensure that previous section 301 agreements are implemented conscientiously by our trading partners.

- Bring about a significantly heightened level of intellectual property protection in the region, including revision of Thailand's patent and trademark laws, Malaysia's copyright law, and India's patent law and passage of a satisfactory patent law in Indonesia. Greatly improved enforcement of intellectual property rights in Korea, Taiwan and the Philippines.
- Ensure that any Pacific Rim regional activities or initiatives are supportive of U.S.G. trade objectives.
- Resolve all section 301 investigations within statutory time limits and in a manner that clearly promotes U.S. trade policy objectives.

ACCOMPLISHMENTS

- Lead non-textile bilateral trade negotiations with Taiwan, Korea, Australia, New Zealand, ASEAN, India and Pakistan on market access issues, improved intellectual property protection and enhanced investment opportunities.
- Negotiated "super-301" liberalization package with Taiwan and Korea providing for liberalized market access in agriculture, investment, services and intellectual property.
- Secured improved patent, copyright and trademark protection in Indonesia, Taiwan, Korea under the "special 301" provisions of the 1988 Trade Act.
- Concluded the ASEAN-U.S. Data Exchange and initiated consultations for a trade and investment framework agreement under the ASEAN-U.S. Initiative.
- Successfully concluded GATT dispute settlement with Korea on beef import restrictions.
- Initiated section 301 negotiations to achieve cigarette market access in Thailand.
- Self-initiated "super-301" actions against India involving restrictions on investment and insurance services.

POSITIONS

Ceiling

Assistant U.S. Trade Representative
Deputy Assistant U.S. Trade Representative
International Economist - Korea and South Asia
International Economist - Southeast Asia (ASEAN) and India
Secretaries (2)

Non-Ceiling

Presidential Management Intern

Multilateral Trade Negotiations

GOALS/RESPONSIBILITIES

- Successful completion of the Uruguay Round of Multilateral Trade Negotiations by December 1990 in accordance with U.S. objectives. This involves negotiations in the following groups: Trade Negotiations Committee (TNC); Group of Negotiations on Goods (GNG) and its separate negotiating groups on: (1) Tariffs; (2) Non-tariff measures; (3) Natural Resource Based Products; (4) Textiles; (5) Agriculture; (6) Tropical Products; (7) GATT Articles; (8) MTN Agreements; (9) Safeguards; (10) Subsidies and Countervailing Measures; (10) Dispute Settlement; (11) Trade-Related Aspects of Intellectual Property Rights; (12) Trade-Related Investment Measures; (13) Dispute Settlement; and (14) Functioning of the GATT System (FOGs). Additionally there is the Surveillance Body and the Group of Negotiations on Services.

- Following December 1990 agreement negotiated internationally, obtain the necessary legislative authority to implement the Uruguay Round agreements -- meeting fast-track authority requires submission by March 1, 1991.

- Overall coordination of and strategic planning for all aspects of the Uruguay Round including:

  - Development of final comprehensive negotiating proposals and position papers for each of the negotiating groups listed above;

  - Oversight of interagency team of negotiators and coordinators for the Uruguay Round;

  - Management of interagency process for agreement on U.S. positions;

  - Coordination with private sector advisory groups on all Uruguay Round matters (in conjunction with Office of Public Affairs);

  - Development of instructions and coordination with USTR/Geneva for all Uruguay Round matters;

- Substantive preparation and planning for Ministerial meetings related to the Uruguay Round (U.S. hosted Quadrilateral in May 1990, Informal Ministers meetings in Japan, Mexico, Canada and a European capital); and concluding Ministerial in Brussels, Dec. 3-7, 1990.

- Meeting with officials of GATT Contracting Parties and other Uruguay Round participants on issues related to the Uruguay Round.

- Preparation and implementation of programs related to Asia Pacific cooperation related to the Uruguay Round, including meetings of senior officials and Trade Ministers in Canada 1990 and just prior to the Brussels Ministerial.

ACCOMPLISHMENTS

o Coordinated and directed U.S. policy and strategy for the Uruguay Round multilateral trade negotiations as it proceeded with substantive negotiations in the 16 discreet negotiating areas.

o Coordinated and directed the interagency effort at Ministerial and subcabinet level for the Mid-Term Review of Progress (MTR) in the negotiations. In December 1988, this resulted in 11 framework agreements to guide the negotiations and preliminary agreements in FOGS and dispute settlement and tropical products.

o Coordinated and directed the interagency senior-official level preparation and implementation of U.S. negotiating strategy to conclude MTR texts in the 4 areas of agriculture, TRIPS, safeguards and textiles at the April MTR in Geneva.

o Coordinated interagency delegation to Montreal MTR, including provision of substantive materials to 150 members of the U.S. delegation (including private sector advisors and Congressional reps and staff).

o Conducted an in-depth review of U.S. negotiating priorities with negotiating teams and reallocated U.S. resources to meet the needs of the negotiations.

o Coordinated and conducted over 60 consultations (many with U.S. interagency teams) with foreign officials in capitals to advance U.S. Uruguay Round positions.

- Held more than 150 meetings in Washington with official and private sector representatives of foreign countries to lobby U.S. positions on the Uruguay Round and the Montreal Mid-term review and the April MTR.

- Coordinated and conducted interagency policy coordination and strategic planning for the Uruguay Round and advancing U.S. positions. Conducted regular meetings of the interagency group of negotiators and coordinators and coordinated Uruguay Round negotiating teams which made at least one submission for each negotiating group.

- Prepared substantive Uruguay Round consultations by quadrilateral Ministers (EC, US, Canada and Japan) hosted by Canada in Montreal and hosted by the EC in The Hague.

- Developed U.S. positions and prepared for meetings at the Deputy and USTR level to conclude the MTR frameworks in agriculture. Bilateral consultations with senior EC, Canadian, Japanese, Swedish, Swiss, Nordics, UK, French, Australia, New Zealand, Mexico, ASEAN and Indian and Mexican trade officials on Uruguay Round issues.

- Developed U.S. positions and prepared for informal ministerial meeting hosted by Pakistan and attended by 24 Trade Ministers on the MTR.

- Developed and obtained interagency clearance for instructions for U.S. delegations to meetings of the Trade Negotiations Committee, the Goods Negotiating Group, the Standstill/Rollback Surveillance Body and the Negotiating Group on Functioning of the GATT System.

- Utilized, in consultation with USTR office of Public Affairs, media available, including USIS, to advance U.S. positions in the negotiations.

- Conducted Uruguay Round seminars in Washington for foreign officials from 7 countries.

- Consulted regularly with the Congressionally-mandated private sector advisory committees, including in plenary rounds.

- Consulted on a regular basis with Congressional staffs and members on Uruguay Round developments and prepared background materials as requested on specific Uruguay Round issues.

POSITIONS

Ceiling
Deputy Assistant U.S. Trade Representative for Multilateral Negotiations
International Economist
Secretary

Non-ceiling
U.S. Coordinator for the Uruguay Round (Ambassadorial rank/Reimbursable Detail)
Stay-in-School Student

GATT Affairs

GOALS/RESPONSIBILITIES

- Develop and implement U.S. positions and policies for participation in the General Agreement on Tariffs and Trade (GATT), including instructions for: (1) Contracting Parties (CPs) session, Council, and Working Parties; (2) Standing GATT Committees including Budget, Trade, and Development, Tariff Concession, and Balance of Payments; (3) accessions and observerships; and (4) all other issues dealing with the general application of GATT Articles.
- Negotiate the terms of GATT accession with applicant countries including China, Venezuela, Honduras, Guatemala, El Salvador, Paraguay, Algeria, Bulgaria, Nepal, Saudi Arabia, Taiwan, and the USSR, including the Protocol, Working Party report commitments, and tariff schedules.
- Provide effective support for USTR/Washington liaison with USTR/Geneva.
- Develop and implement negotiating positions and strategies for Uruguay Round negotiations on (1) Market Access (including Tariffs and Non-Tariff Measures), (2) MTN Agreements and Arrangements, and (3) GATT Articles.
- Negotiate improved discipline in context of Uruguay Round on pre-shipment inspection and Rules of Origin.
- Coordinate trade policy issues associated with implementation of the Harmonized System of Nomenclature (HS), including responding to outstanding domestic concerns with the new tariff schedule, conducting negotiations under the dispute settlement provisions of the HS Convention, and conducting the remaining Article XXVIII negotiations on foreign HS conversions to ensure that benefits are maintained for U.S. exporters.
- Develop policies and negotiating positions related to the implementation and operation of the MTN Agreements on Technical Barriers to Trade (Standards), Government Procurement, Customs Valuation, and Import Licensing.

- Negotiate expanded coverage of the Government Procurement Code to include purchasing entities in the fields of energy, telecommunications, and transportation.
- Continue negotiations on expansion of the Government Procurement Code to cover services contracts.
- Coordinate development of U.S. positions in the OECD Trade Committee and trade-related issues discussed at the ECSS and annual Ministerials.
- Negotiate explicit coverage of "processes and production methods" (PPMs) in the Standards Code, expand the Code's disciplines regarding testing, inspection and approval procedures, regional activities and bilateral agreements.
- Negotiate improved discipline in the Import Licensing Code to limit the use of licensing, particularly discretionary, non-automatic licensing.
- Coordinate the USG response in the GATT to any increases in bound tariffs by other GATT Contracting Parties.

ACCOMPLISHMENTS

- Coordinated positions and developed instructions for U.S. representatives before GATT meetings, including Contracting Party Sessions, Special and Regular Council meetings, and Working Parties on various issues.
- Developed, coordinated, and implemented USG policy and instructions with respect to the operation of the GATT Committees responsible for the operation of the Technical Barriers, Customs Valuation, Licensing, and Government Procurement Codes.
- Developed U.S. positions for the Uruguay Round Negotiating Groups on GATT Articles, Market Access (including Tariffs, Non-tariff Barriers, Textiles and Apparel, and Natural Resources), and MTN Agreements and Arrangements.
- Developed, coordinated, and implemented the U.S. position in negotiations concerning the terms of accession for China (PRC), Bolivia, Costa Rica, Tunisia, and Venezuela to the GATT. Completed negotiations with Costa Rica and Bolivia on terms favorable to U.S. trade interests.

- Successful negotiations of the removal of 272 Korean quantitative restrictions on agricultural products.
- Developed and coordinated implementation of U.S. positions concerning USSR interest in closer association to the GATT, including preparation of briefing papers and instructions, and conducting interagency reviews.
- Developed and implemented USG implementary panel recommendations concerning the U.S. Superfund Tax.
- Conducted bilateral consultations with other major countries affected by pre-shipment inspection activities. Prepared formal proposal for Rules of Origin in the Uruguay Round Negotiating Group on Non-Tariff Measures.
- Conducted series of bilateral discussions with Japan and the EC to resolve standards-related trade problems, which resulted in administrative reforms to provide greater market access to U.S. exporters.
- Prepared Administration's response to numerous Congressional proposals for "Buy America" restrictions on government procurement.
- Planned and implemented first stage of Title VII of the Omnibus Trade and Competitiveness Act of 1988.
- Completed negotiations to renew the NTT agreement.
- Initiated interagency review of U.S. bilateral defense MOU's relating to procurement.
- Acceded to the Harmonized System Convention, attached new GATT Schedule XX to HS format to the Geneva (1988) Protocol, and implemented the Harmonized System.
- Completed Article XXVIII negotiations on Harmonized System conversions of Indonesia, Malaysia, Singapore.
- Completed Article XXVIII negotiations with Australia on previous changes to its tariff rates.
- Developed positions regarding USG request to initiate a GATT work program regarding the relationship of worker rights to international trade.

- Developed Administration positions and/or commented on numerous miscellaneous tariff bills.

- Completed full GATT balance-of-payments consultations with Turkey and Pakistan; and conducted simplified consultations with Argentina, Nigeria, Philippines, Tunisia, and Yugoslavia.

POSITIONS

Ceiling
Assistant U.S. Trade Representative
Deputy Assistant U.S. Trade Representative
International Economists (5)
Foreign Affairs Officer
Secretaries (2)

Non-Ceiling
Non-Reimbursable Detail (3)
Presidential Management Intern
Stay-in-School Student

Industry

GOALS/RESPONSIBILITIES

- To ensure that the private sector advisory committees are fully informed about US trade policy issues and that their views are adequately taken into account in the trade policy decision process.

- To provide staff support for USTR multilateral and bilateral trade initiatives. To ensure that the USTR and DUSTRs are kept fully informed of ongoing and emerging issues affecting trade in manufactured goods.

- To direct interagency review of Section 201 "escape clause" cases involving manufactured or industrial products. To ensure that USTR's views are adequately taken into account in deciding Section 232 (national security) cases.

- To ensure that the GSP (Generalized System of Preference) program is operated in an efficient and open manner, and in such a way as to further broader US trade policy objectives.

- To ensure that trade policy concerns are adequately reflected in decisions made concerning trade finance (e.g., by Export-Import Bank) and in the policies of the international financial institutions (e.g., World Bank, IMF).

- To develop and implement a comprehensive and effective strategy for the implementation of the telecommunication provisions of the Trade Bill and to direct negotiations conducted pursuant to those provisions.

- To develop a comprehensive strategy for dealing with unfair trade practices in the shipbuilding sector and on that basis to conduct multilateral and bilateral negotiations.

- To oversee implementation of the VRA program for steel and develop and implement a comprehensive strategy for concluding multilateral agreements disciplining trade-distorting practices in steel.

- To ensure that the US-Japan semiconductor arrangement is implemented in a satisfactory manner.
- To support and advance US negotiations aimed at achieving international agreement to discipline use of "tied aid" (money to be used to buy U.S. products) as tool of commercial competition.
- To develop and implement a strategy for greater cooperation with the EC in high technology trade and to ensure that EC policies and practices (including rules of origin) are conducive to US high technology and investment.
- To develop and implement a comprehensive strategy aimed at disciplining subsidization of the Airbus program.
- To provide support for multilateral and bilateral negotiations aimed at opening up foreign (especially European) markets to US exports of heavy electrical equipment.
- To negotiate improved multilateral disciplines in GATT Uruguay Round on subsidies and natural resources.
- To provide support for trade policy initiatives on Eastern Europe and the USSR to ensure that they advance U.S. commercial opportunities.

ACCOMPLISHMENTS

Industry

- In cooperation with Department of Commerce and USTR's private sector liaison office, developed and directed work program for 14 Industry Sector Advisory Committees (ISAC's) as well as the Industry Policy Advisory Committee (IPAC). Represented USTR in ISAC/IPAC discussion and served as primary conduit for channeling ISAC views into USTR policy discussions.
- Initiated the reopening of negotiations on Airbus issue with the Europeans. Chaired US delegation to meetings of the GATT Aircraft Committee.

- Directed interagency review of trade aspects of international space launching services; initiated and chaired formal consultations with European Space Agency (ESA) on the subject and co-chaired subcommittee charged with developing a "cost matrix" comparison of U.S. and ESA practices.

- Provided technical support for negotiations with Taiwan aimed at correcting overshipment of machine tools in violation of the VRA and for related discussions with Israel.

- Initiated interagency review of the options available to the President concerning steel trade policy. Pursuant to the President's steel program, initiated and successfully concluded VRA's and/or bilateral consensus agreements imposing discipline on subsidies and other trade distorting practices with 18 countries.

- Conducted U.S.-Japan semiconductor consultations. Achieved interagency consensus on program for working constructively with Japanese on improving access while rejecting their calls for elimination of sanctions.

- Directed interagency staff work on overall telecommunications trade strategy, and trade aspects of Executive Branch response to FCC proposals and ATT Consent Decree modification. Initiated process for implementation of telecommunication market access provisions of 1988 Omnibus Trade Bill, including the designation of EC and Korea as priority countries. Directed development of negotiating strategy and objective for the EC and Korea.

- Chaired interagency group on economic and trade issues related to UN agreement in ozone (Montreal protocol). Organized analysis of trade and economic implication of global warming issue.

- Chaired U.S. Delegation to meetings with EC Commission and Canada on proposed Directives on chemical labelling.

- Advised General Counsel on technical aspects of GATT case against United States on Superfund.

- Participated actively on U.S. Delegation in meetings with EC on high-tech issues, particularly in areas of biotechnology and advanced manufacturing technology.

- Developed strategy to deal with US industry concerns about EC "forced investment" policies in high tech. Led negotiations with the EC on rules of origin issues concerning circuit boards and other computer products.
- Worked with U.S. coal industry on trade problems with Japan, EC, Colombia, etc.
- Provided input and analysis into Super 301 process with respect to manufacturing and industrial products.
- Assisted in implementation of US-Canada FTA especially regarding energy, telecommunications, and automobiles.
- Developed negotiating strategy and objectives for Super 301 action on forest products for Japan and initiated negotiating process.
- Prepared, in conjunction with OMB and other agencies, annual report to Congress on the impact of offsets.
- Negotiated agreement with Japan to eliminate practices blocking access for US firms to Japanese cellular and third party radio markets. Barriers were in violation of of Japanese obligations to U.S. under MOSS Telecommunications agreements.
- Represented the Administration in successfully opposing legislation that would allow States to ban exports of logs from State-owned lands.
- Led U.S. negotiating efforts in Uruguay Round on natural resources and subsidies.
- Participated as USTR representative in interagency discussions on possible administrative changes to export control laws.
- Working with Department of Defense and private sector liaison unit, developed and directed work program of Defense Policy Advisory Committee.
- Monitored implementation of orderly marketing agreement on tungsten negotiated with China under section 406 of 1974 Trade Act.
- Implemented informal system whereby USG influences trade policy reforms contained in World Bank structural adjustment and trade policy loans.

- Represented USTR in interagency meetings of the Working Group on Multilateral Aid (WGMA) which reviews lending by the multilateral development bank.

- Represented USTR at Export-Import Bank Board meetings and assisted in formulation of Administration policy on tied aid credits.

- Represented USTR at the National Advisory Council (NAC) which reviews various financial issues, including USG financing programs that support exports (e.g., Eximbank, CCC, AID).

- Coordinated U.S. government dispute settlement initiative in GATT to eliminate EC export restrictions on copper scrap.

- Prepared analysis of EC market access for U.S. producers of heavy electrical equipment and led interagency formulation of a strategy for consulting with the EC on this issue. Led consultations with EC and four member countries to gather information on this issue.

- Developed basic strategy and analytical base for dealing with trade distortive practices in the shipbuilding sector. Initiated bilateral negotiations with EC, Japan, and Korea on this issue.

GSP

- Completed 1988 Annual Review. Twenty-five product petitions were reviewed, as well as eight country practice cases. Results included the addition of 9 products, removal of one product and graduation of one product affecting Mexico. Two countries (The Central African Republic and Burma) were suspended after a review of their worker rights practices found they did not meet GSP eligibility standards. All changes were effective July 1, 1989.

- Initiated 1989 Annual review; 162 petitions were received. Ninety-four product and nine country practice petitions concerning nine countries were accepted. Four cases continued from the previous review are also being decided (Liberia, Haiti and Syria on worker rights and Venezuela on expropriation).

- Several reviews were concluded outside the annual review schedule. This included expedited review to remove cigarette filler tobacco (granted). An intellectual property rights protection case concerning Thailand was resolved on January 19, 1989. The President determined that Thailand was not providing adequate and effective protection of U.S. intellectual property rights. Thailand's benefits under GSP were reduced on a number of products, effective July 1, 1989. As a result of the 1988 Trade and Competitiveness Act, a special review to consider watches (58 tariff categories) for GSP eligibility was initiated on October 7, 1988. Fourteen categories of watches were added to GSP, effective November 16, 1989. A review of Hungary and Poland was also conducted during FY 1989 to determine their eligibility for GSP benefits. Both were added to the list of beneficiaries early the next FY.

- GSP began operating under the Harmonized Tariff System. A number of petitions were received in the 1988 annual review requesting changes in product coverage which had resulted from this conversion. With the assistance of the USTR computer section and the Bureau of the Census, developed a new computerized database for collecting and reporting GSP trade statistics and petitions records.

- GSP Seminars were conducted in Asia, Latin America and Africa to promote use of the program in beneficiary countries.

- Represented the United States at UNCTAD's 16th Session of the Special Committee on Preferences in Geneva, April, 1989.

POSITIONS

Ceiling
Assistant U.S. Trade Representative for Industry
Deputy Assistant U.S. Trade Representative for Industry
International Economists (8)
Research Assistant (Part-time)
Secretaries (3)

Non-ceiling
Non-Reimbursable Details (2)
Contractor
Stay-in-School Student

Agricultural Affairs

GOALS/RESPONSIBILITIES

- Negotiate an agreement on agriculture in the Uruguay Round that will begin movement toward global market orientation for trade in agricultural products.
- Implement agreements reached on agriculture in the Uruguay Round of trade negotiations, including development of domestic legislation in consultations with industries and Congress.
- Negotiate acceptable solutions to bilateral agricultural issues--long-term grain agreement with the Soviet Union, new feedgrains agreement with the EC, and other bilateral issues that are outstanding.
- Continue to work on resolving implementation difficulties with the Canadian free trade agreement.
- Complete activities required by law, interagency decisions, or assigned to unit, e.g., activities in the OECD Agriculture Committee, legislative requests, implementation of 1990 farm legislation, administration, speeches and public relations activities.

ACCOMPLISHMENTS

- Developed detailed elaboration of the U.S. proposal for dealing with agriculture in the Uruguay Round covering all aspects of negotiations: import access, internal support, export competition and sanitary and phytosanitary regulations. Prepared information for release by Secretary of Agriculture, U.S. Trade Representative and by U.S. delegation in Geneva. Held extensive consultations with Congress and the private sector on proposal.
- Completed Mid-Term Agreement on Agriculture with 96 countries in Uruguay Round which sets out objective and roadmap for negotiations over the next two years.

- Assisted in preparing briefing papers and language for OECD Ministerial and Summit statements on agriculture.

- Chaired interagency panel which reviews and approves each Export Enhancement proposal submitted by the Department of Agriculture.

- Briefed various Agricultural Technical Advisory Committees, other private sector groups, and Congressional staff members on developments affecting agricultural trade, with particular emphasis on the status of the Uruguay Round negotiations on agriculture.

- Led delegation and coordinated preparation of background materials on: Australia-U.S. sugar consultations, EC-U.S. Section 22 consultations, U.S.-EC apple restrictions, Brazil-U.S. Soyoil Export Enhancement Program.

- Negotiated new grain agreement with the Soviet Union.

- Assisted in preventing the implementation of the EC's proposed tax on the consumption of fats and oils.

- Negotiated an end to Sweden's apple import embargo.

- Assisted the U.S. alfalfa industry in exporting trial amounts to the Korean feeding industry.

- Satisfactorily handled Rice Millers' Association's 301 complaint against Japanese prohibition of rice imports by continuing posture of dealing with the restrictions in the Uruguay Round.

- Successfully enlarged Portugal's quota on soybean oil to assure that it would continue to be non-restrictive.

- Participated in bilateral discussions on EC hormone directive, assisted in developing U.S. position challenging the EC directive in the GATT Standards Code Committee, and in preparing retaliation package when bilateral efforts failed.

- Allocated U.S. sugar quotas in a GATT-consistent manner and obtained foreign governments certification that sugar exported to the United States was not of Cuban origin as required by law.

- Successfully resolved meat inspection impasse "Third Country Directive" which threatened U.S. meat exports to the EC.

POSITIONS

Ceiling
Assistant U.S. Trade Representative
Deputy Assistant U.S. Trade Representative
International Economist (1)
Secretaries (2)

Non-Ceiling
Non-Reimbursable Details (3)
Reimbursable Detail

Office of Congressional Affairs

GOALS/RESPONSIBILITIES

- Develop and maintain a system of communication to express the Administration's trade policy to Members of Congress, their staffs, and committee personnel.
- Develop support in the Congress for Administration positions on trade legislation and U.S. negotiating positions by establishing strong liaison relationships with key congressional committees and Members' staffs.
- Convene meetings of the Trade Policy Staff Committee (TPSC) Subcommittee on congressional liaison for the purpose of coordinating Administration's actions and tactics in support of Administration positions. (Including designation of Administration witnesses on trade issues before Congressional committees, designation of lead Federal agency in contacts with congressional committees, and individual Members. etc.)
- Reflect Congressional concerns in U.S. trade policy program development.
- Keep the USTR and senior staff fully appraised of legislative developments in the Congress and key Members' views on trade issues.
- Assume leadership/facilitator role in presenting Administration positions to the Congress on all pending trade legislation.
- Keep the White House fully informed on a weekly reporting basis of all significant developments in the Congress on trade related issues.
- Maintain oversight on all Congressional correspondence, particularly on communications from the relevant committees with oversight of trade issues, and maintain accurate files on all congressional correspondence.
- Respond quickly and accurately to all congressional inquiries on trade matters.

ACCOMPLISHMENTS

- Coordinated all arrangements and briefing materials for the USTR's monthly executive sessions with key oversight committees on the status of Uruguay Round and other bilateral issues.
- Chaired an estimated 12 meetings of the Trade Policy Staff Committee to coordinate Administration responses to congressional committee activities on trade policy issues.
- Handled arrangements for USTR representations at more than 30 House and Senate hearings on trade policy issues.
- Arranged countless briefings for Congressional committee staffs to explain U.S. negotiating objectives or actions, as well as arranged a similar number of briefings for individual Members of Congress.
- Provided pre-notification of important USTR actions to Members of Congress and Committee staffs responsible for trade issues.
- Assured that appropriate trade staff were provided on a daily basis information on U.S. objectives in the Uruguay Round, including cables, U.S. negotiating texts, key foreign submissions, and other relevant background information necessary for timely consultations and advice.

POSITIONS

Ceiling
Assistant U.S. Trade Representative
Deputy Assistant U.S. Trade Representative
Legislative Affairs Officer
Secretary

Non-Ceiling
Stay-in-School

Public Affairs

GOALS/RESPONSIBILITIES

- Advise the U.S. Trade Representative and her senior staff on public affairs matters and objectives.
- Serve as principal spokesperson to domestic and foreign media to advance Administration trade policy.
- Provide outreach services to the media on U.S. trade related issues, events and negotiations.
- Inform the public opportunely on key U.S. trade issues affecting the economy through a systematic program consisting of press releases and conferences, speeches, background briefings, fact sheets and other publications.
- Coordinate relevant USTR public affairs activities with other USG agencies.
- Maintain source files containing pertinent unclassified reference materials and other information on trade activities which can be accessed by the media and the public.
- Place a series of op-ed articles with major newspapers on issues concerning the Uruguay Round to build a consensus among opinion leaders regarding the Administration's trade policy.

ACCOMPLISHMENTS

- Continued to maintain and develop close professional relations with the corps of specialized trade journalists to increase understanding of "301," the Uruguay Round, open market policies, trade relations with Japan, and other key issues.

- Expanded output of information on trade matters to the media through an intense round of press conferences, speeches, and briefings by the USTR and her deputies resulting in more accurate and balanced reporting on the state of U.S. trade relations. Positive media reaction abroad to the USTR's Worldnet programs and many substantive on the record interviews have been constructive by helping clarify questions on USG objectives.
- Responded to several thousand inquiries from media, industry, and the public on USTR actions, the state of play of trade laws, U.S. policies, negotiations, etc.
- Initiated new computerized press telecommunications system to more efficiently transmit trade information to primary audiences.

POSITIONS

Ceiling

Assistant U.S. Trade Representative - Public Affairs and Private Sector Liaison (Detailed to Treasury)
Press Secretary
Public Affairs Specialist
Secretary

Office of the Private Sector Liaison

GOALS/RESPONSIBILITIES

- Direct and manage the activities of over 40 private and public sector advisory committees including the congressionally mandated President's Advisory Committee on Trade Policy and Negotiations (ACTPN), seven policy advisory committees (Services, Intergovernmental, Labor, Agriculture, Industry, Investment, and Defense), and over 30 technical, functional, and sectoral committees comprising almost 1,000 advisors.

- To seek the advice of these committees on U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation and administration of U.S. trade policy.

- To provide a venue for consensus-building by the private and public sector regarding the President' trade policy.

- Ensure that these committees are fully informed of sensitive on-going trade negotiations and other trade policy issues and developments through quarterly meetings in Washington, Geneva, and other appropriate locales, through mailings of trade policy statements, proposed and concluded negotiating texts, and other relevant materials, and through the organization and conduct of specialized task forces.

- Key trade policy issues and developments for which private sector advice will be solicited during FY 1990 include:

    - most importantly--the centerpiece of U.S. trade policy--the Uruguay Round of multilateral trade negotiations scheduled to conclude in December 1990;
    - proposed trade agreements with Eastern European nations and the Soviet Union;
    - the U.S.-Japan trade relationship;
    - EC 1992;
    - U.S.-Mexico trade negotiations;
    - U.S.-Canada FTA implementation;
    - trade law requirements; and
    - other issues relating to trade developments, negotiations, and trade policy formulation and implementation.

- To ensure that advice received from the committees and from other private sector sources reaches appropriate U.S. trade negotiators through their direct participation in meetings or through written or verbal communications.
- To conduct an outreach program to other U.S. and foreign business, labor, consumer, agricultural, service, and state and local-level government organizations on the President's trade policy, on planned and on-going trade negotiations, and other important trade related issues and events.
- To recharter the President's Advisory Committee on Trade Policy and Negotiations (ACTPN), the Industry Policy Advisory Committee (IPAC), the Investment Policy Advisory Committee (INPAC), the Services Policy Advisory Committee (SPAC), the Labor Advisory Committee, the Intergovernmental Policy Advisory Committee (IGPAC), and 21 industry sectoral and functional advisory committees.
- To continue a strong membership recruitment campaign for remaining vacancies on the committees.

ACCOMPLISHMENTS

- During FY 1989, the President's Advisory Committee on Trade Policy and Negotiations issued a report examining the U.S.-Japan trade relationship. The Japan Task Force spent one year conducting an economic analysis of the U.S.-Japan trade relationship and formulating a set of recommendations aimed at improving it. While these recommendations were not endorsed by the Administration, the report framed the public debate on U.S.-Japan trade issues.
- All of the policy-level committees presented a report to the USTR on private sector objectives for the Montreal Midterm Review of the Uruguay Round negotiations. These reports strongly underlined U.S. private sector support for a far-reaching, ambitious agreement sought by the U.S. Government. In addition, representatives from the policy advisory committees accompanied the U.S. Government Delegation to the Montreal meeting, held meetings with other government delegations, with GATT secretariat personnel, and with representatives of foreign private sectors. The group also provided advice to U.S. negotiators at the meeting.

- The Investment Policy Advisory Committee accompanied by Ambassador Carla A. Hills made a trip to Geneva to emphasize to our GATT trading partners the importance the U.S. private sector attaches to achieving a substantial agreement on Trade-Related Investment Measures (TRIMs) as part of the Uruguay Round agreement.

- The Industry Policy Advisory Committee (IPAC), which lay dormant for several years, was reestablished by USTR and the Department of Commerce to provide industry -- particularly manufacturing sector -- advice. It held three meetings and organized three task forces to examine issues of importance to the IPAC: the Uruguay Round, technology transfer/export control, and the Structural Impediments Initiative with Japan.

- The 17 Industry Sector Advisory Committees (ISACs) provided technical advice on the 15 negotiations underway under the Uruguay Round and on a host of other trade issues. The ISACs provided detailed information on which products, by country, they seek tariff reductions as part of the Uruguay Round market access negotiations. Information provided by the ISACs constitutes the bulk of the first two tranches of U.S. requests in these negotiations.

- During FY 1989, a major recruitment drive was undertaken to expand the membership of most of the policy advisory committees to be fully representative of private and public sector interests. Over 50 new members were recruited to policy-level committees -- all senior-level, highly-respected individuals representing key private and public sector interests.

POSITIONS

Ceiling
Director, Private Sector Liaison
Secretary

Non-Ceiling
Non-reimbursable Detail

Office of Computer Operations

GOALS/RESPONSIBILITIES

- Expand use of a classified telecommunications link between Washington CICUR network and USTR/Geneva. Install additional TEMPEST workstations on this circuit to allow for increased use by negotiators and visiting authorized CICUR users.

- Institutionalize and expand protected CICUR network among all active TPSC agencies. Fully automate the secure clearance of TPSC documents, and continue to develop information systems and applications for interagency work program and the Uruguay Round of Multilateral Trade Negotiations.

- Complete implementation and full enforcement of computer security plans, policies and programs as mandated by the Computer Security Act of 1987.

- Replace deficient word processing system installed in USTR/Geneva office with an office automation processor capable of supporting USTR's expanded role and resident staff.

- Examine possibilities and develop plans for possible implementation of distributed network processing to facilitate use of microcomputer software and tools not available on the minicomputer systems.

- Upgrade telephone sets in the Winder Building to take advantage of current technology which provides administrative flexibility (e.g., central switchboard coverage) and realize savings in areas of line moves and changes.

- Implement X.400 standard for electronic message and document interchange format to provide transparent (to the user) transfer between commercial, EXOP, interagency, and USTR's DGMAIL electronic mail systems.

- Research and promote use of imaging technology with optical storage for USTR institutional memory project to provide agency with a central and permanent record of trade agreements, arrangements, TPSC documents, and correspondence.

- Complete 5-year strategic plan for USTR planning and budget use in addition to those reports prepared for central management agencies (OMB and GSA).
- Set up a tie-in to Office of Administration Requisition System with batch updating of USTR requisitions.
- Planned implementation of resource accounting and security software.
- Planned implementation of direct DG to facsimile hardware/software.
- Planned installation of a secure facsimile capability in Washington.
- Provide trade, tariff, and other economic data to the USTR professional staff.
- Maintain an information center to satisfy trade information requests and to provide systems analysis and development of trade data systems as necessary.
- Enhance USTR staff's direct access to office automation tools and computer data files via terminals and personal computers located throughout the agency. Continue implementing a long term plan to create within USTR an automated office featuring:
    - word processing
    - document indexing and archiving linked to USTR Trade Term Thesaurus
    - electronic mail to internal, interagency and private sector
    - telecommunications with USTR/Geneva
    - security for classified and sensitive documents
    - correspondence control
    - private sector advice tracking
    - document and trade agreement archiving
    - spreadsheets
    - data base management
    - graphics and desktop publishing
- Provide leadership to other TPSC agencies on trade information issues, and provide coordination for large interagency data processing projects (e.g. Uruguay Round of Multilateral Trade Negotiations)
- Maintain and enhance a Government-wide trade and tariff information network, TPSC TradeNet, to provide easy access to computerized trade data, and to reduce agency information processing costs by pooling information resources and cooperative problem solving.

- Increase TPSC TradeNet collection of trade and tariff data through exchanges with international organizations and foreign governments.
- Provide training on USTR in-house and CICUR systems, and provide updated user instructions as systems are revised.
- Staff an Information Services Desk, which provides a technical assistance contact for all trade information systems questions and electronic mail and other office automation system requests for USTR and CICUR interagency users.
- Develop, implement and maintain databases as required by USTR staff to more efficiently manage a variety of information in a computerized format.
- Maintain revisions of software for minicomputers and personal computers at a level which will be supported by the equipment and software manufacturers.
- Monitor contracts for computer services to assure that services are performed and products are delivered as stipulated in the contracts.
- Maintain the Trade Action Monitoring System, and continue to make it publicly available through the National Technical Information Service, at no cost to the agency.
- Compile daily press clippings on trade issues and related matters. Distribute to USTR professional staff, Congress and other trade policy addressees.

ACCOMPLISHMENTS

- Successful award of contract in the competitive procurement for Facilities Center Management Support, and Training and Technical Assistance Support.
- Established a DG-Mail link with USEC/Brussels.
- Provided on-site word/data processing, facsimile and telecommunications support at the GATT Uruguay Round mid-term review in Montreal.

- Completed on-site visits to 25 offices within the TPSC Agencies to facilitate interagency workstation access to the Unclassified and CICUR Systems. Each office housing a workstation was visited at least once. During the visits, OCO staff configured personal computer equipment, connected peripherals, installed software, wrote batch programs to perform routine functions, tested connections, and trained interagency staff on first-hand use of STU III and communications software. Continued chairing interagency Technical Working Group on Telecommunications and CICUR.

- Upgraded STU III equipment for USTR and interagency data use to incorporate STU Access Control System (SACS) capability. SACS provides automatic answering of the STUs in the Computer Center which connect dial-in users to the CICUR System. This eliminates the need for manual intervention by OCO operators and provides a faster response to interagency users.

- Continued research for an ADP contingency plan, surveyed the marketplace for suitable contingency centers and started procurement activities to contract with an equipped contingency center meeting USTR requirements.

- Continued discussions with Department of Commerce/International Trade Administration to institute a reciprocal agreement for off site storage of classified and unclassified backup files and critical operations documentation.

- Approval from DOS for plan, acquisitions, construction and equipment shipments per USTR continuing efforts to establish secure computer processing capabilities in USTR/Geneva. Construction and installations were completed.

- The TPSC Subcommittee on Information Systems continued to promote interagency sharing of trade data and computer programs, and maintained contributions to the interagency trade data system, TPSC TradeNet.

- Represented the U.S. and provided expert advice and recommendations to the GATT and member country representatives regarding the creation, handling and use of a common computerized data base known as the "Integrated Data Base" for the Uruguay Round negotiations.

- In cooperation with the Department of Commerce/International Trade Administration, supervised the contract for an interagency "Trade and Tariff Library". The Tariff Library now operational is undergoing enhancements, and work continues to improve the data available to that system.

- Cleared bureaucratic entanglements to establish Bureau of Census data subscription on behalf of the Government of Mexico, as the implementation of the U.S. side of the data exchange.

- Managed an AID-sponsored grant to assist ASEAN countries in completing the data exchange requirements. Set up visits to ASEAN capitals by U.S. government experts on trade information systems to study operations in the collection and compilation of foreign trade statistics.

- Provided data and computer-based analysis tools for Generalized System of Preferences, Canada-U.S. Free Trade Area tariff acceleration negotiations, and reporting to the GATT on the Government Procurement Code.

- Provided data and computer-based analysis tools for the Uruguay Round market access negotiations. Developed and implemented an "interim" system used to develop the initial U.S. Request List during the summer of 1989. Developed and implemented the Request/Offer System to allow for the entry and edit of U.S. and foreign requests and offers. Manipulated and loaded data into the database from a variety of sources, including the interim database and Lotus files. Prepared a number of "look up" files for controlling the data entry and edit of requests and offers. Converted a PC-based system, which is used to track non-tariff measures (NTM) held by countries around the world, to operate on the DG mini-computer. Linked the NTM System to the Request/Offer System to tie tariff and NTM data together. Developed and implemented an advice tracking system to capture private sector opinions on NTM issues.

- Answered numerous requests for trade, tariff and other economic data for bilateral negotiations and other ongoing USTR projects.

- Continued to produce a Trade Action Monitoring System of U.S. trade actions. Made this report available to the public through NTIS at no cost to the agency.

- Continued the conversion of an existing system used to track purchases and requisitions from COBOL to the new data base management software package. The conversion was required to expand capabilities that will provide better management of funds and more accurate tracking of purchases and receipts.

- Continued working with contract programmer to enhance communications and documents transfer software for personal computer workstations accessing the USTR minicomputers. Tested and documented problems and required modifications. Installed test software on various PC workstations throughout OCO. Developed specifications for incorporating enhanced capabilities (local printing, background processing, batch transfers) within existing electronic mail system.
- Upgraded the internal electronic mail system to continue to support communications between Washington and Geneva offices as well as among TPSC Agencies.
- Continued classroom and individual training holding at least one session per week, covering computer applications available through the USTR computer network. Held classes for internal USTR staff to introduce them to the Unclassified and CICUR Systems. Held classes for interagency staff, training approximately 150 people on Unclassified and CICUR System use.
- Provided staff members with portable personal computers for computer support while on travel, extended sick leave, and nights/weekends.
- Continued support for generation of USTR speeches, testimony, and public reports.
- Expanded "hotline" to provide technical assistance to USTR and CICUR interagency users from 9:00 am. to 7:00 p.m. daily (with pager service available after 7:00 p.m.)
- Upgraded existing facsimile machines in Washington and Geneva offices, and installed additional facsimile machines in Washington to provide greater access for transmittal and receipt of facsimile messages. Installed facsimile machine in USTR/Geneva capable of transmitting and receiving confidential material.
- Continued to generate a daily News Clipping Service with distribution to USTR staff, Congress, and other interagency addressees.
- Provided support to new Front Office staff under Ambassador Hills. Developed a number of customized applications, including the USTR Timeline System, a memo logging system for use by all Ambassadors, a calendar application based on WordPerfect's Library software, a contacts tracking application, and software to capture and record home address and phone information for all USTR employees. Provided one-on-one training to all Front Office staff on demand. Procured and installed equipment at Front Office request, including laser printers, a facsimile machine, STU III's for voice communication, PCs and terminals.

- Developed and implemented software to transfer data (electronic mail messages, database updates) between the Unclassified System and CICUR. Developed and implemented policies and procedures for executing the transfers on a regular basis in batch mode, requiring minimal operator intervention.

- Prepared USTR's report outlining compliance with the Privacy Act and submitted to OMB and Congress. Prepared USTR's second year report to GSA describing information resource management efforts and reviews conducted during the year.

- Prepared a Computer Security Privacy Plan (CSPP), as required by the Computer Security Act of 1987, and submitted the plan to the National Institute of Standards and Technology and General Accounting Office. The CSPP outlines USTR's plan to protect computer systems that house sensitive information.

POSITIONS

Ceiling
Director, Data Center
Secretary
Computer Specialist (2)
Computer Program Analyst
Computer Equipment Analyst
International Trade Systems Analyst
Computer System Analyst

Non-Ceiling
Contractors (11)
Stay-in-School Students (6)

Administration

GOALS/RESPONSIBILITIES

- Fulfill all statutory and regulatory requirements related to effective utilization and control of the agency resources, for the Washington and Geneva offices.
- Assist, advise, support the U.S. Trade Representative and the Chief of Staff, the Deputies and Unit Managers on a variety of management, administrative, policy, and protocol matters.
- Responsible for making recommendations on a wide range of management matters or proposals which are directed to the USTR or her Deputies.
- Serves as liaison with senior officials of Federal Agencies, the White House, Congress, international organizations, RAMC-Paris and the U.S. Mission-Geneva.
- Provides advice and assistance to the USTR, the Chief of Staff, and her Deputies on short and long range resource goals and plans, and on Congressional Hearings.
- Responsible for the development and implementation of management systems to assure fulfillment of the agency's goals.
- Provides advice to the Chief of Staff on sound, effective management techniques to assure a smooth functioning organization.
- Provides overall leadership and supervision of data systems and the entire Computer Operation.
- Provides administrative support through three work groups:

  Human Resources Support Group
  Administrative Services Support Group
  Financial Management Support Group

ACCOMPLISHMENTS

- Announced another SES candidate development program which resulted in a high number of applicants from USTR's professional staff.
- Provided daily advice to the USTR and Deputies on a broad range of management issues, confidential personal matters, internal reorganization, and resources.
- Initiated and organized three seminars for the professional staff on topical subjects, and arranged special program for National Secretaries Week which included a tailored one-day seminar and the Secretary of-the Year Award.
- Coordinated the processing of all political appointees through the Presidential Personnel Office and the Central Office of Administration and, responded to a large volume of written employment inquiries sent to the USTR.
- Acquired 44 volunteer interns from 25 universities which resulted in a savings of $100,000.
- Continued the successful professional detail program with other agencies which provides opportunities for rotational - career development assignments and continues to build a cadre of broadly based professionals, and a strengthened exchange of essential information and contacts among several key trade agencies.
- Continued to upgrade internal security systems by establishing a clearance tracking system, and tighter control of building passes. Completed contract negotiations for new security doors, and strengthened internal security policies and procedures.
- Completed negotiation for major computer contract to provide Facilities Center Management Support and Training and Technical Assistance Support.
- Assured strong data support for all activities related to the Uruguay Round of trade negotiations. The computer - based analytical tools will greatly enhance staff's ability to deal effectively and timely with a wide variety of issues.
- Completed on-site visits to many other agencies to facilitate interagency access to USTR's trade data systems. This will assure a greatly strengthened interagency network.

- Met all resource deadlines for annual submissions to OMB and the Congress; acquired adequate funding; implemented the no-year monies process for out-year initiatives and for the Geneva currency fluctuation; and even with tight budget restraints and cost increases, manage to absorb the pay increases, provided the agency with the resources needed to meet established goals.

POSITIONS

Ceiling
Assistant U.S. Trade Representative for Administration (AUSTR)
Special Assistant to AUSTR
Director, Administrative Services
Director, Human Resources
Director, Financial Management
Secretaries (3) (1 unit secretary + 2 floater secretaries)
Human Resources Assistant
Budget Analyst
Support Services Specialists (2)
Correspondence Information Control Assistant
Motor Vehicle Operators (3)
Director, Reading Room
Financial Analyst
Professional-in-Training (1)

Non-ceiling
Secretary
Stay-in-School Students (6)

USTR - Geneva

GOALS/RESPONSIBILITIES

- Pursue to a successful conclusion (in December 1990) the comprehensive multinational trade negotiations known as the "Uruguay Round," recognizing that meaningful results will be necessary in all areas of the negotiation of interest to the United States.
- Ensure that the necessary follow-up actions are pursued and completed in Geneva after the December 1990 end of the negotiations, so that the results of the Round are effectively implemented systemically in GATT as well as in the United States and our trading partners.
- Provide for ongoing representation of the United States in the Uruguay Round of Negotiations and before the GATT Council, and demonstrate leadership in all areas where the U.S. interests are affected by multilateral discussion.
- Provide leadership in defense of United States interests in trade disputes pursued through the GATT system and ensure that U.S. rights are preserved fully.
- Ensure ongoing and effective representation of the United States in deliberations of all NTM Code Committees and Councils, new fora (committees) expected to emerge from the negotiations in areas such as services, intellectual property and investment, and (for textiles) in the Textiles Surveillance Body or its successor body.
- Provide regular logistical support for frequent visits to Geneva of Congressional and private sector advisors on trade questions and ensure that substantive background briefings and consultations are provided in order that such visits are of maximum benefit to the advisors.

ACCOMPLISHMENTS

- As a unit, USTR/Geneva staff played a pivotal role in the successful attainment of a mid-term review agreement in the Uruguay Round of trade negotiations, contributing importantly to the results achieved in Montreal (December 1988) and Geneva (April 1989).

- Over the year in question, USTR/Geneva staff led or participated in delegations to all meetings of Uruguay Round negotiating groups, involving over 100 formal meeting sessions in Geneva, plus considerably more meetings of an informal nature, including those held outside of Geneva.

- The United States was represented by USTR/Geneva over the period in twenty-eight formal appearances before GATT dispute settlement panels and in sixty-eight formal dispute settlement consultations under GATT auspices. Ten disputes involving U.S. interests were definitively resolved in this period: of the ten cases, the position held by the United States prevailed in eight cases.

- In addition to Uruguay Round negotiating groups and formal dispute settlement activity, all regular GATT meetings (Council, working parties and committees, and Code committees) were fully staffed-out by USTR/Geneva which ensured not only support of Washington-based delegations but also timely and accurate reporting on more than 150 separate meetings.

- Staff assisted in the necessary analytical work required for developing and refining U.S. policy positions in Uruguay Round negotiating groups and contributed importantly to ensuring that negotiating proposals were placed on the table in a timely fashion which preserved the momentum of the Round and moved the negotiations forward in all key areas of interest to the United States.

- Support provided by USTR/Geneva staff over the period in question ensured productive visits to Geneva by significant numbers of Congressional and private sector advisors, thereby increasing support in these quarters for the Administration's negotiating strategies and objectives in the Uruguay Round.

- Staff assisted in the necessary analytical work required for developing and refining US policy positions, and worked closely with members of foreign delegations as well as the GATT and UNCTAD Secretariats in order to ascertain their views and promote U.S. policy positions.

- This activity contributed to the achievement of substantive progress during the second year of the Uruguay Round, and advancement of U.S. interests in the regular GATT and UNCTAD trade work programs. Despite the additional workload imposed by the UR and increased dispute settlement activity, there was no increase in unit staff.

POSITIONS

Ceiling
Deputy U.S. Trade Representative
Deputy Chief of Mission
Textiles Minister-Counsellor
Confidential Assistant
International Economists (3)
Attorney Advisor
Secretaries (2)

Non-ceiling
Non-Reimbursable Details (4)
Council on Foreign Relations Fellow
Contractors (8)
Secretary

Other Resources
Agricultural Minister-Counsellor (USDA)
Secretary (USDA)
Senior Commercial Officer (DOC)
Secretary (DOC)
ADP Systems Manager (USTR/Washington)

Services, Investment, Intellectual Property, Science and Technology

GOALS/RESPONSIBILITIES

- Formulate U.S. positions for and lead U.S. negotiating team to GATT and bilateral negotiations on services.
- Formulate USG policy on and lead U.S. negotiating team to GATT and bilateral negotiations on intellectual property rights (IPR).
- Formulate U.S. positions for and participate in GATT negotiations on trade-related investment measures.
- Coordinate USG policy on and lead or participate in negotiations on bilateral investment treaties and other trade-related bilateral investment initiatives (e.g. Mexico, Poland, Hungary, Soviet Union and possibly Czechoslovakia and the German Democratic Republic.
- Provide support for private sector and congressional approval of final Uruguay Round package.
- Coordinate USTR policy on inward investment issues and represent USTR on Treasury-chaired Committee on Foreign Investment in the U.S.
- Represent USTR on U.S. delegations to OECD on developed country investment matters.
- Coordinate USTR policy on issues involving Overseas Private Investment Corporation (USTR is Vice-Chairman of Board).
- Negotiate IPR annexes to bilateral agreements on science and technology.
- Assess international trade and economic implications of developments in areas of science and technology and advise USTR on these matters (e.g. Superconductivity).
- Represent USTR on selected international negotiations on science and technology.

- Provide substantive staff support for Services Policy Advisory Committee, Investment Policy Advisory Committee, Services ISAC, and Industry Functional Advisory Committee on IPR.
- Coordinate USTR work on telecommunications services.
- Coordinate USTR participation in EPC Working Group on Research, Development, and Innovation and Competitiveness Policy Council.
- Responsible for Memorandum of Agreement with PRC on trade in commercial launch services and negotiations with European Space Agency on commercial launch services.
- Responsible, for implementation of Special 301 of Trade Act on intellectual property.
- Advise and assists USTR bilateral units on all bilateral services, investment, IPR issues (e.g., U.S./Canada FTA, U.S./Mexico Framework, Europe 92, Super 301).
- Complete Uruguay Round negotiations on services, TRIPs, and TRIMs, secure private sector and Congressional support for the results, and obtain necessary domestic implementing legislation.
- Successfully implement Special 301 of Trade Act of 1988 in a way that advances U.S. international intellectual property objectives.
- Successfully implement provisions of Trade Act of 1988 on Japanese construction barriers.
- Conclude IPR annexes to S+T Agreements with China, India, and other countries with which renewals of S+T agreements are negotiated during the period.
- Successfully staff out a new S+T function in the unit, and integrate it into overall USTR mission; make contributions to recently inaugurated interagency work on U.S. competitiveness and U.S. research, development, and product innovation ensuring there is a meaningful trade component to such work.
- Successfully implement U.S./PRC agreement on commercial launch services and conclude USG policy review on possible negotiations with Europe.
- Collaborate with bilateral units on implementation of U.S./Canada FTA, U.S./Mexico Framework, and Super 301 with respect to services, investment, and IPR issues.

ACCOMPLISHMENTS

Services

- Developed U.S. positions for (including two detailed proposals) and led U.S. negotiating team to GATT negotiations on services. Prepared U.S. comprehensive framework agreement on services for presentation to GATT.
- Developed U.S. positions for and led U.S. negotiating team to U.S./Canada FTA Chapter on Services.
- Coordinated 301 investigation on Japanese barriers to U.S. architectural, engineering and construction services.
- Led U.S. negotiations with Canada on telecommunication services issues.
- Coordinated bilateral strategy for telecommunication services (e.g. Japan, Korea, EC).
- Developed improvements in U.S. statistics on trade in Services.
- Represented USTR at World Administrative Telegraph and Telephone Conference of the International Telecommunications Union.
- Participated in U.S. delegations on international maritime issues.
- Represent USTR at OECD meetings of Information, Communications and Computer Policy (ICCP) Committee.
- Updated USTR Inventory of foreign services trade barriers and carried out extensive analyses of such barriers.
- Did substantive liaison with ISAC 13 (Services) + SPAC (Services Policy Advisory Committee).
- Participated in negotiations to improve motor carrier transportation services between U.S. and Mexico.

Investment

- Developed agenda for investment discussions with Mexico in context of U.S./Mexico Framework Agreement and with EC in context of 1992.
- Participated in negotiation of investment chapter of U.S./Canada FTA.
- Advised on shape of U.S. initiative in OECD to strengthen OECD National Treatment Instrument.
- Sought and obtained changes in OPIC policies to better align them with USG objective of promoting sound investment policies in LDCs.
- Developed U.S. positions for GATT negotiations on trade-related investment measures.
- Did substantive liaison with INPAC including major briefing of INPAC in Geneva.

Intellectual Property

- Negotiated IPR annex to S+T agreements with Japan and developed prototype annex for use in other S+T agreements.
- Chaired or participated in bilateral discussions on IPR matters with Mexico, Argentina, Chile, Brazil, EC, Egypt, Turkey, GCC, Germany, Thailand, Malaysia, Indonesia, Japan.
- Coordinated development of U.S. positions for GATT negotiations on IPR.
- Advanced legislation resulting in Congressional approval of legislation enabling U.S. to adhere to Berne Convention.
- Advised on selected 301 and GSP cases involving IPR issues (e.g., Brazil 301 on pharmaceuticals, Thailand and GSP, etc.).
- Did substantive liaison with Industrial Functional Advisory Committee--Intellectual Property (IFAC #3).
- Administered Special 301 Program including extensive private sector and congressional consultation.

POSITION

Ceiling
Assistant U.S. Trade Representative for Services
Deputy Assistant U.S. Trade Representative for Services
Deputy Assistant U.S. Trade Representative for Investment, Intellectual Property and Science and Technology
International Economists (3)
Secretaries (2)

Non-Ceiling
Reimbursable Detail (3)
Non-Reimbursable Detail
Stay-in-School Students (2)
American Electronics Association Fellow

1/2 Irving Fuller's salary paid by EPA and 1/2 by USTR

OFFICE OF THE U.S. TRADE REPRESENTATIVE
FULL-TIME PERMANENT POSITIONS BY GRADE LEVEL
FY 1989-1991

	1989	1990	1991
Executive Level I	1	1	1
Executive Level III	3	3	3
Subtotal	4	4	4
ES-6	13	15	17
ES-5	5	3	3
ES-4	1	0	0
ES-3	3	3	1
ES-2	1	1	2
ES-1	0	1	0
Subtotal	23	23	23
GS-15	38	42	42
GS-14	14	20	20
GS-13	11	13	13
GS-12	5	4	4
GS-11	1	2	2
GS-10	3	3	3
GS-9	21	23	23
GS-8	13	11	11
GS-7	6	5	5
GS-6	2	3	3
GS-5	3	1	1
GS-4	0	0	0
Subtotal	117	127	127
Other than Full-Time Permanent	2	2	2
Total, allocated permanent positions	146	156	156
Less unfilled positions, end of year	2	0	0
Total, permanent employment, end of year.	144	156	156*

*Based on assumptions that OMB will continue FTE allocation at Current Level

OFFICE OF THE U.S. TRADE REPRESENTATIVE
SUMMARY AND DESCRIPTION OF REQUIREMENTS BY OBJECT CLASS
(Dollar amount in thousands)

Appropriation: Salaries and Expenses

		1990 Appropriations		1991 Estimate		Inc. (+) or Dec. (-)	
		Pos.	Amount	Pos.	Amount	Pos.	Amount
11.1	Full-Time Permanent Positions............	154	7,196	150	7,631	-4	+435
11.3	Positions Other Than Full-Time Permanent............	2	470	2	535		+ 65
11.5	Other Personnel Compensation... (overtime, differentials, awards, merit increases)		302		351		+ 49
11.8	Special Personnel Services payments........................ (reimbursable details)	----	360 ------	-----	368 -----	---	+ 8 ----
	Total Personnel Compensation..	156	8,328	152	8,885	-4	+557
12.1	Personnel Benefits............. (health, retirement, insurance, allowances)		1,599		1,720		+121
21.0	Travel and Transportation of Persons........................		1,394		1,461		+ 67
22.0	Transportation of Things........		73		75		+ 2
23.1	Rent - GSA..................... (rent for office space in Washington)		1,192		1,228		+ 36
23.2	Rent - Other (Geneva)...........		556		616		+ 60
23.3	Communications, Utilities and Miscellaneous.................. (utilities,Xerox, telephone, postage, teletype, computer time)		1,305		1,370		+ 65
24.0	Printing and Reproduction....... (Federal Register, stationery, forms, reports)		162		267		+105

Object Class (Continued)		1990 Appropriations	1991 Estimates	Inc. (+) or Dec. (-)
25.1	Other Services.................. (program support - Geneva, economic analysis, personnel and vendor contracts and office machine maintenance, transcribing and translation services, career development, language training, clearances)	2,810	2,906	+ 96
25.2	Representation.................	89	98	+ 9
26.0	Supplies and Materials......... (office supplies, computer expendables, supplies)	155	160	+ 5
31.0	Equipment...................... (Office equipment DC and Geneva, computer hardware)	115	150	+ 35
	Sub-total Other Objects........	9,450	10,051	+ 601
TOTAL	REQUIREMENTS...................	17,778	18,936	+1,158

Mr. SMITH. Here to testify today is the United States Trade Representative, Carla Hills. Ambassador Hills, please proceed with your statement at your own pace.

Ambassador HILLS. We have filed a rather lengthy statement.

Mr. SMITH. We will put it in the record.

Ambassador HILLS. We are pleased to have it in the record.

Mr. SMITH. You may highlight your statement, or however you want to proceed.

GENERAL STATEMENT

Ambassador HILLS. As you mentioned, our authorization request for fiscal year 1991 is for $18,936,000. $1.5 million of that request is earmarked for the cost of administering the dispute settlement procedures of the Canadian Free Trade Agreement. These funds are used to reimburse the Commerce Department for costs under Chapter 19.

When these costs are subtracted, USTR is requesting only $17,436,000 for operating expenses. That compares with a $16,778,000 operating budget for fiscal year 1990, exclusive of those Free Trade Agreement funds.

If we also subtract for inflation and the planned government wide salary increases, the numbers actually represent a decrease in the real resources available to USTR for fiscal year 1991.

The bill also asks for a $9,000 increase in the representational fund spending limits, bringing it up to $98,000, and a continuation of the no fund spending authority up to $1 million. That no-year authority is intended to insulate USTR from the impact of currency swings on the budget in our Geneva Office.

We also request no-year spending authority for up to $1.5 million for Canadian Free Trade Agreement related costs. We are requesting no new positions. We expect to remain at our authorized level of 156, although we still are waiting for OMB approval.

The USTR budget request was predicated on the concept that first quarter fiscal year 1991 costs, that is the cost in the fall of this year, will be far higher than usual because of extensive travel and meetings necessary to conclude the negotiations in the Uruguay Round discussions that end in December of 1990.

While the negotiations in the round will conclude then, we expect the pace of activity associated with the round will continue at a high level through March of 1991 as we conclude implementing agreements, prepare the agreements for submission to Congress, and work with Congress on the legislation necessary to implement the agreements.

Some additional travel will then be required to work out the specific language of the agreements and to persuade our trading partners that the changes that are required in other legislation are not undermining the agreements that we have struck in the Uruguay Round.

Other bilateral issues, of course, will continue to be present. We do not expect them to let up in fiscal 1991. Both Japan and Eastern Europe will require increased resources and attention, especially in terms of travel and conference costs.

Let me say something about the $1.5 million requested for the Canadian Free Trade Agreement. This budget estimate was developed by the Department of Commerce based upon the expected costs of administering Chapter 19 panels. In fiscal year 1991, USTR intends to transfer funds appropriated to it for Chapter 19 support directly to Commerce since the secretariat within NITA will manage the actual expenditure of those funds to the panels.

Overall, the funds requested are enough to get the job done. If the request is approved, we believe that USTR will have the resources to conclude the Uruguay Round and to continue our bilateral negotiations.

In carrying out our task with this budget, we have to continue to rely very heavily on support from the rest of our sister agencies and departments. Our philosophy continues to be aimed at keeping USTR as small and as lean as possible, consistent with fulfilling our mission.

I am happy to answer any questions you may have.

[The prepared statement of Ms. Hills follows:]

TESTIMONY
OF
AMBASSADOR CARLA A. HILLS
BEFORE THE
HOUSE APPROPRIATIONS COMMITTEE
SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES

FEBRUARY 27, 1990

Mr. Chairman:

It is a pleasure to appear before you to present the fiscal year 1991 budget authorization request for the Office of the United States Trade Representative.

We greatly appreciate your support of USTR's work. We are always interested in your ideas and counsel as we deal with the enormous trade challenges that confront the United States.

Mr. Chairman, USTR is a small agency with a big mission: to bring about fundamental changes in the world trading system. We do this with 156 permanent employees and a very small budget. We often enlist the support of other agencies. We have a great variety of interns, detailees, and students -- ways we make our personnel resources go further. We restrict our travel carefully to the most essential trips. Our discretionary funds are virtually nil. All of this means that USTR is getting the most out of its appropriated resources.

I am extremely proud that USTR continues to be able to do so much with so little. We will continue in FY 1991 to try to move trade mountains with the resources at our disposal. I want to assure this Committee, however, that I am not aware of any agency of government that gets more "bang for the buck."

Our FY 1991 budget request is very modest. We ask for $18,936,000. When inflationary increases and funds especially earmarked for the operation of the U.S.-Canada Free Trade Agreement are subtracted, USTR is requesting a lower level of real resources than in the previous fiscal year. We hope to stretch these resources even further than we have in the past.

Before I describe our FY 1991 resource request, I would like to briefly review the major trade issues toward which these resources are directed.

The Administration's Trade Policy

The Bush Administration has a clear vision of the world it seeks: one in which entrepreneurs, not government bureaucrats, determine how industries and farms compete and how nations trade.

We are vigorously executing a three-pronged strategy to achieve our vision:

- First, we are negotiating today in the Uruguay Round of international trade talks to build a trading system for tomorrow.
- Second, we are pursuing ambitious market-opening initiatives with our key trading partners.
- Third, we are vigorously enforcing domestic trade laws to safeguard the rights of American industry and agriculture.

THE URUGUAY ROUND

Of greatest importance is the Uruguay Round. The reason is simple. Right now, one-third of world trade -- or over $1 trillion each year -- is not adequately covered by internationally agreed rules of fair play. This means manufacturers in Missouri, corn growers in Iowa, tobacco growers in Kentucky, and a host of our most competitive entrepreneurs from coast to coast are denied the chance to do what they do best -- compete fairly and squarely in international markets.

That is why the United States, with Congressional assistance, helped launch the Uruguay Round in 1986. It is why President Bush has made the Round's successful conclusion by this December our highest trade priority.

The negotiations fall into four broad categories: agriculture; market access; the so-called "new issues" of intellectual property rights, services and investment; and reform of the GATT's rules. All are important to us. We cannot trade progress in one area against foot-dragging in another.

If the Uruguay Round is to succeed, the United States must have:

- Expanded market access for trade in goods, looking toward a "tariff free" world.
- Far-reaching, fundamental reform of agricultural trade.
- An end to trade-distorting government subsidies.
- Firmer application of the system's rules to developing countries, which now account for $500 billion in world trade.
- Extension of the GATT's rules of fair play to the "new areas" of investment, services, and intellectual property.
- And, finally, a swift and sure mechanism for settling trade disputes.

In these areas and others, we are working hard to hammer out agreements. We have but 10 short months before trade ministers meet in Brussels to conclude the Uruguay Round.

Success will require changes in all countries, including the United States. We will put our own restrictions on the table. But we will not unilaterally disarm. Trade reform means reform by all. The Uruguay Round is important, but I have made it clear to my counterparts that I would rather walk away from the table than bring home a package that is not in America's best interest.

Success will also require that the Administration and the Congress work together. We value your advice and guidance. We also need private sector views and will intensify our already close consultations with our many advisors in the months ahead.

The Uruguay Round is a bold and ambitious undertaking. It represents the last, best chance in this century to create the trading rules we must have for the next century.

ACTIONS BEYOND THE URUGUAY ROUND

While the Uruguay Round is vitally important, we need actions outside the Round that complement and reinforce our objectives there. In 1989, we initiated many actions to open markets and expand trade, including:

- The President's Steel Trade Liberalization Program, under which the world's leading steel producers agreed to curb government subsidies and open markets;
- Our recent acceleration of $6 billion of tariff reductions under the U.S.-Canada Free Trade Agreement;
- Our efforts to ensure that as Europe reduces barriers internally to create a single market by 1992, it not raise them externally;
- Our New Understanding with Mexico, which is designed to expand trade in key sectors;

- Our various negotiations with Japan seeking to eliminate structured impediments and other restrictions to trade; and
- Our initiation of trade talks with Eastern Europe and the Soviet Union as they move away from centrally-planned systems toward market-driven regimes.

In 1990 we will pursue market-opening initiatives with Japan, Eastern Europe, the European Community, Canada, Mexico, and the nations of the Pacific Rim.

In the next few months, we will make determinations with respect to super and special 301, and government procurement provisions of the Omnibus Trade and Competitiveness Act of 1988. It would be premature for me to comment specifically on these matters at this time. However, the Administration is committed to using the trade policy tools at its disposal to further our goals of opening markets, expanding trade and creating a fair, effective system of international trade rules.

With respect to the six super 301 investigations launched last year, we are engaged in intensive discussions. We have held innumerable meetings with our trading partners about these issues, and we will continue to work toward a satisfactory resolution over the next several months.

Beyond the specifics of our trade laws, we are working around the world to open markets and support a free and open trading system. I would like to briefly mention some of our areas of activity.

o While we are working in the Uruguay Round to improve the dispute settlement process, we have been active participants in GATT dispute settlement proceedings during the past year and have witnessed the improvements already made at the Montreal Mid-Term Review. We were pleased with the favorable panel rulings in disputes over EC oilseed subsidies, Korea beef import restrictions, Canada's restrictions on ice cream and yogurt, and EC and Norwegian restrictions on apple imports. We were also pleased with our agreement with the EC to eliminate EC export restrictions on copper scrap -- a settlement that was facilitated by convening a GATT panel.

- Concern with Japan ranks high in all corners. No single bilateral relationship occupies more of my time. The Administration has given the Japanese a clear message: Japan, the world's second largest industrial market, must become as open and competitive as the U.S. market. Decisions on whether to import or export must be based on signals of price and quality and not administrative guidance, industrial targeting, or exclusionary business arrangements.

  To achieve this end, the Administration is pursuing a broad array of initiatives. First, we are using the Uruguay Round to seek the elimination of barriers in agriculture and services as well as to ensure an end to government procurement practices that discriminate against foreign suppliers. Second, the Administration has launched a series of negotiations to open up specific Japanese industries, in areas such as satellites, supercomputers, forest products, and construction. Finally, we are attacking structural barriers to trade and investment through the Structural Impediments Initiative.

- The United States has given a strong, positive response to the changes in Eastern Europe and the Soviet Union. The Administration and the Congress worked together to design an aid package for Poland and Hungary worth almost $1 billion. We have proposed that the package be extended to cover all the emerging democracies in Eastern Europe and Yugoslavia.

We now are in negotiation or are moving toward negotiations with several Eastern European countries on trade and investment agreements. Our aim is to increase market access, protect U.S. businesses, and encourage market-oriented reform in those countries. We already have entered into negotiations with Poland on a Business and Economic agreement and expect to do so shortly with Hungary after free elections there. We will also seek to normalize relations with the other countries in the region: Bulgaria, Czechoslovakia, East Germany, and Romania. We have just started talks on a trade agreement with Czechoslovakia.

With respect to the Soviet Union, the President has directed that we negotiate a trade agreement and an investment agreement. In addition to granting MFN to the Soviet Union, the trade agreement will seek protection for U.S. businesses in the form of safeguards from import surges, intellectual property rights protection, and greater freedom in doing business in the Soviet Union. We plan to complete the negotiations in time for an agreement to be signed at the next U.S.-Soviet Summit meeting in June.

- We will build on the framework agreement and understanding with Mexico. The Salinas Administration is in the midst of a bold effort to tear down trade barriers, open the doors to investment, and restructure the Mexican economy.

  We will work with Mexico in its efforts. The New Understanding signed last fall establishes a clear mechanism for increasing trade opportunities between our two countries.

  We now are studying the areas of petrochemicals and standards for possible negotiations to start this spring and end in November. In addition, talks continue under the 1987 Framework Agreement on liberalizing trade and investment in areas such as agriculture, industry, tariffs, services, intellectual property rights, and investment. In each case, agreements leading to more open markets will benefit all nations, not simply the United States and Mexico.

We will, of course, be active in other regions of the world. We are closely monitoring progress in the EC 1992 exercise, to ensure the exercise creates new opportunities for trade and investment. We will work with the nations of the Pacific Rim to build on the process started in the Asia Pacific Economic Cooperation conference and the ASEAN-U.S. Initiative. And we will continue to work with Canada to implement the U.S.-Canada Free Trade Agreement.

FY 1991 REQUEST

Last year we explained in detail our organizational decisions for handling the extremely heavy workload for the Uruguay Round. Our approach is working well, with overall coordination under the direction of USTR's Coordinator for the Uruguay Round. The intensity of the work continues to increase as we head into the critical home stretch of the negotiations.

USTR's request for FY 1991 is quite modest given our ambitious agenda. It calls for an overall increase of $1,158,000 for a new level of $18,936,000. However, when government wide salary increases and inflation are taken into account, USTR will have a lower level of real resources available to it in FY 1991 than in this fiscal year.

These resources are needed to conclude the Uruguay Round, to continue to meet the requirements of the Omnibus Trade and Competitive Act of 1988, to continue the implementation of the U.S.-Canada Free Trade agreement, and to continue meeting the demands of our bilateral efforts to reduce foreign trade barriers. In all of these undertakings, USTR relies heavily on the excellent support and cooperation of the numerous agencies involved in the trade policy and implementation process.

$1.5 million of the USTR budget will pay for the U.S. share of dispute settlement panel costs under the U.S.-Canada Free Trade Agreement. This program is administered through a binational secretariat, the U.S. section of which is located within the Department of Commerce. That department, which disburses these funds and develops the budget estimates, expects a significant increase in the requests for Chapter 19 proceedings in FY 1991. This budget requests an increase of approximately $500,000, in the U.S. share of panel costs. We have reasonably good estimates, but we cannot control the actual case volume which may arise during the year.

Another $440,000 is requested for additional personnel costs, to cover the anticipated significant increase in SES salaries and regular government pay. Our base of $10,605,000 in personnel costs will rise by $678,000 in FY 1991. USTR will absorb $238,000 of the mandated pay increase through savings elsewhere.

Although the Uruguay Round will end formally at the end of the first quarter of FY 1991, the resource needs associated with the Round will increase. This budget requests an increase of $131,000 for FY 1991. The first quarter of FY 1991 will be an intense period for Uruguay Round negotiations. Significant activity (5-10 weeks of meetings) is expected in each of the 15 negotiating groups during this period, requiring the presence of a large number of USTR personnel in Geneva and other capitals to move toward a conclusion of negotiating group activities.

The concluding ministerial meeting is scheduled for December 3-7 in Brussels. Extra travel during the first quarter of FY 1991 and support for a large U.S. delegation at the Brussels Ministerial are anticipated to cost $675,000.

After the framework agreement is concluded in Brussels, implementation arrangements will have to be negotiated with all participants. USTR expects this phase, including heavy travel demands, to continue at least through June 1991.

As noted, travel needs will continue to constitute a major part of USTR resource requests. Total travel costs in FY 1991 are estimated at $1,461,000, a 4.9 percent ($67,000) increase over FY 1990. Rent costs for USTR space in Washington and Geneva will total $1,844,000 a 3.0 percent ($53,000) increase over

FY 1990. Costs of equipment leases, phones, utilities, and guard services will total $1,370,000, a 4.7 percent ($65,000) increase. Other services (primarily computer-related contract services and dispute settlement panel costs) will total $3,005,000, an increase of 3.7 percent ($106,000).

Some in the Congress have been concerned about our capacity to handle the workload given to us in the Omnibus Trade and Competitiveness Act of 1988, to follow up on the U.S.-Canada Free Trade Agreement, and to complete the Uruguay Round. We are confident, however, that working together with the many elements of the U.S. trade community, we can get the job done, and done well.

Mr. Chairman, I again thank you and the members of the subcommittee for the support you have provided in the past. We commit to continued close consultations with the Congress, which have been so beneficial in the negotiating process. Without your active support and involvement, the Administration cannot succeed in the Uruguay Round, or any of our other initiatives. Working together, the Administration and Congress can ensure that the United States speaks clearly and forcefully as we explain to the world what open trade means and why it must be nurtured.

CFTA CHAPTER 19

Mr. SMITH. Why are you handling this Chapter 19 funding that way, back and forth between USTR and Commerce?

Ambassador HILLS. I think that Congress felt that USTR should have the funds and control over the panel, so they wanted the Commerce Department to administer the funds.

Mr. SMITH. Is that awkward or not?

Ambassador HILLS. We have a very close relationship with Commerce. It does mean that there is a little more paper flowing back and forth, but so far it has worked quite well.

1991 AUTHORIZATION

Mr. SMITH. What about your 1991 authorization? Do you expect to get one through this year or not?

Ambassador HILLS. We have submitted our authorization this week; have we not?

Mr. SMITH. Is there any reason to think you will get one? You did not get one last year. What makes you think you will get one this year?

Mr. BURNS. Mr. Chairman, I think both of the authorizing committees are very sensitive to what happened last year. I think there is going to be a substantial effort to do it better. Whether it will work out or not, I do not know.

Mr. SMITH. But we will not have it in time to mark up this bill, will we?

Mr. BURNS. I do not know, sir.

OMB REQUEST

Mr. SMITH. What was your request to OMB?

Ambassador HILLS. The request was for $23,250,000.

Mr. SMITH. What did that difference represent?

Ambassador HILLS. Well, the difference overall is $4.3 million. The largest sum we asked OMB for was $2 million for the Free Trade Agreement with Canada. They gave us $1.5 million. We wanted to upgrade our computers. That would have added $1.2 million. We had added travel and computer support for $700,000 for the Uruguay Round.

On the pay increase, you will notice that is the highest portion of our overall budget. Because of the mandated pay increases our bill for our personnel goes up to $678,000, and OMB has authorized us to a $440,000 increase, and so we are having to make up the difference ourselves.

EASTERN EUROPE

Mr. SMITH. Are you involved in the most favored nation determinations for Eastern European countries?

Ambassador HILLS. Yes, we are. We are in the midst of negotiations with Czechoslovakia. President Havel, as you know, was here this past week.

Mr. SMITH. What is your role in negotiating in those? I mean, I know the President signs the paper, but, before that, you have to negotiate certain things.

Ambassador HILLS. The President has to declare that he will, in the case of Czechoslovakia, waive the Jackson-Vanik amendment.

Mr. SMITH. Right.

Ambassador HILLS. There are two conditions to a nation getting most favored nation status. One is they have to establish an immigration policy that is open and free. With the Soviet Union they are in the second reading of legislation that would codify open immigration. Czechoslovakia has yet to elect a parliament. They have said to us that they will have a parliamentary election June 8th, and then they would be able to enact the necessary legislation.

Second, under the 1974 trade bill, Congress has asked USTR to negotiate a 10 point commercial treaty. That is really a trade treaty. It deals only with trade, not with investment, and seeks to create a climate of security for U.S. entrepreneurs in the field of trade and to facilitate trade by allowing goods into the market, opening access, provide safeguards against surges of imports from that country, protection of proprietary data, and intellectual property rights.

Very often after we have negotiated—and indeed it is our strategy here—the commercial treaty that is required by the 1974 act, we go on and negotiate a bilateral investment treaty which is not a condition precedent to the most favored nation status, but is highly desirable when you are dealing with these nations.

URUGUAY ROUND

Mr. SMITH. Now, will the Uruguay Round be completed early next year?

Ambassador HILLS. The negotiations will be completed, with cooperation from all parties, by the end of this year.

We are required under our legislation to give notice of our negotiated agreement to Congress by March 1991. That triggers fast track legislation; we would submit the actual text of the agreement no later than June of 1991 and cooperate in drafting the implementing legislation.

Mr. SMITH. When will you be actually sitting down at the negotiating table?

Ambassador HILLS. We have been sitting at the negotiating table non-stop for the past three years.

Mr. SMITH. Well, yes.

Ambassador HILLS. And are continuing to negotiate. We have 15 negotiating teams in Geneva, and we have trade ministers who hear in just a very high frequency.

COMPUTER SERVICES

Mr. SMITH. Are you using the computer service that we provided?

Ambassador HILLS. Yes.

Mr. SMITH. You are?

Ambassador HILLS. Our computers are vital to what we do. One of our negotiations is to negotiate openings of market access, which means bringing down tariffs and non-tariff barriers. With 97 trading partners, we have to put onto a computer with tariff line precision exactly what we are trying to accomplish.

Mr. **Smith**. Well, before you became the Trade Representative, we had a little difference with the Agriculture Department. They wanted to do in-house all of these determinations as to what would occur if certain things happened, which has no credibility as far as that is concerned with foreign countries. But anyway, we provided that service, and I hope you are using it because I think it is running $750,000.

I have some other questions, but you have to be at the White House at 3:00 o'clock you said?

Ambassador **Hills**. At the request of the President.

Mr. **Smith**. If necessary, we will ask you to come back at another time. Keep that in mind as we proceed with questioning.

Mr. **Rogers**. Ambassador Hills, welcome back to the subcommittee.

Ambassador **Hills**. Thank you.

BUDGET REQUEST

Mr. **Rogers**. Once your pay and inflation components are removed from your request, there is a net reduction in fiscal year 1991.

Ambassador **Hills**. That is right.

Mr. **Rogers**. At the same time, as you have pointed out, your work load in the Uruguay Round is significant, and that activity will accelerate the first quarter of 1991 at least. Then the various aftermath of the week in December in Brussels is going to require staff and travel requirements and other expenses well into the summer of 1991.

I guess I am saying to you, you have really got a flat budget request here. It is even less than flat. No increases in personnel, major responsibilities on top of normal ones coming up, even beyond Uruguay.

Would it be fair to say that this request cuts somewhat close your ability to fulfill the mission you have?

Ambassador **Hills**. I think we can, however, fulfill the mission. We are a coordinating agency. We try to coordinate trade policy within the Government and then negotiate pursuant to that policy.

We borrow talented assets throughout the government. We have 35 non-reimbursable detailees which have been lent to us.

OMB REQUEST

Mr. **Rogers**. What was your request to the OMB?

Ambassador **Hills**. The request was $23,250,000.

Mr. **Rogers**. So you have cut that almost $4 million?

Ambassador **Hills**. $4.3 million.

Mr. **Rogers**. That is a fairly substantial cut; is it not?

Ambassador **Hills**. It sounds like a lot of money to me.

Mr. **Rogers**. In your request to OMB, were you cut in areas that could impact on your ability to conclude and implement the round in Uruguay?

Ambassador **Hills**. I hope that the way that we have strategized to use our resources will enable us to carry out our mission very effectively.

Mr. **Rogers**. Well, I will be frank with you.

At a time when we are losing the new international method of competition, not military, but economic, we have begged for all of this century for the world to quit fighting militarily and let us compete in the marketplace. Finally, our greatest adversary in the world appears to be saying, "Okay, you are on. Let's disarm and go to battle in the marketplace."

We are not doing so well there right now. In fact, we are getting clobbered internationally in the marketplace.

Then we get a budget request for the agency that is supposed to be out running the fight in the new fight to control the world, and we get a flat budget request. I do not get it, and I am on your side. What is going on?

Ambassador HILLS. It is a balance of many priorities, Mr. Rogers. I think that one of the toughest jobs we have in opening markets is overcoming the perception that our trade problems are caused by our trade deficit.

Of course, our trade deficit is simply a function of the fact that we have an investment rate that is 16 percent of our gross domestic product and a savings rate that is 13 percent. We are having to import foreign capital to make-up the shortfall thus creating this deficit. So the administration is trying very hard to increase savings.

One way to increase savings is to cut down on Federal dissavings. So I am a little bit in between here, because I would like very much to erase the Federal deficit. At the same time I would like to open the markets.

I think we struck a pretty good balance here trying to carry out our mission, understanding that there is an overall economic backdrop that is extremely important to our mission.

TRADE DEFICIT

Mr. ROGERS. So you are saying that the big trade deficit is not caused so much by the inaccessible foreign markets as much as it is our competitive status here at home?

Ambassador HILLS. No. I am saying that our trade deficit is a function of macroeconomic factors, the rate of our savings, which is 13 percent, and the rate of our spending or investment, which is 16 percent. So even if all the markets were open, if we continue to out spend our savings, we would have a deficit.

That is a very bad backdrop for the trade negotiations that I undergo because it creates an anxiety and a frustration. But we still have a tremendous effort because I truly believe that we must get markets open so we can expand trade, because expanded trade creates wealth. If we do not get the markets open and nations become disgusted, and even our own nation gives up and decides to turn inward and put up trade barriers, retaliates, for example, and shuts off markets, trade will contract and we will have gravely diminished prosperity.

Mr. ROGERS. How much do you get beat over the head in negotiations by those who say that America's problems in the trade deficit arena are caused by things of our own making, the Federal deficit, for example, and others? How much beating over the head do you get from people like the Japanese?

Ambassador HILLS. Well, there is no question that our trade posture, and our economic well being could be improved by greater savings, by kids in school from kindergarten through grade 12 who are crackerjacks, with doctorates and engineers and mechanics at the other end of the scale in education; by a quality control program of corporate America that was the top in the world. But, you know, we have a lot of things going for us in our economy. Although we are not perfect and we should all, from the business sector, and education sector, get on with these things to improve where we stand, we still are first in exports in lots of areas in aerospace, in film making, in pharmaceuticals, in medical devices, and the like. So we want to capitalize on our competitiveness. We want to get those markets open so that we can sell our goods and create an expansion.

Mr. ROGERS. What I was hoping to learn was how big of an impediment to your success, in negotiations with our trading partners, are the features of our domestic economy? Do they say, "Well, if you people would control your Federal deficit, quit borrowing so much money on the world market, your prices would be more competitive and you would not need to hammer us over the head on trade imbalances"?

Ambassador HILLS. Well, it is raised every day. It is raised all the time.

But I can agree with those macroeconomic problems that we must address. I can also say that unilaterally we can address those. We can do something about our savings rate alone. We do not need any partner to help us. What we cannot do alone is to open the markets to trade. That is where we do need a consensus. So I can agree that there is much to do at home, but my portfolio is to get those markets open abroad.

Mr. ROGERS. Yes. Well, let me congratulate you, while we are on that topic, on the tobacco and tobacco leaf openings in Japan, South Korea, and Taiwan. You have negotiated substantial improvements of direct benefit to the American growers and the American industry. I want to thank you for that and congratulate you on the good work and hope it will continue, particularly in view of the barriers that Thailand is throwing up.

TEXTILE NEGOTIATIONS

Ambassador HILLS. As you know, we are in a dispute settlement case with Thailand on that issue.

Mr. ROGERS. And I wish you well on that, and thanks for the good work so far on the others.

One final issue before I pass the torch here—the textile negotiations. It is my understanding that you have recently proposed a scheme for integrating textile and apparel trade under normal GATT rules.

Ambassador HILLS. We have agreed that we will negotiate about how to bring textiles under GATT disciplines over time.

Mr. ROGERS. And that would be a substantial change from the current scheme for regulating textile and apparel imports.

Do you have any feel for the response that is likely to come regarding this proposal?

Ambassador HILLS. Internationally?

Mr. ROGERS. Well, yes, both internationally and from the American industry.

Ambassador HILLS. We meet internationally very frequently. We have a framework agreement which has a consensus among the trading partners which is to seek ways to bring the textile sector within GATT discipline. So there is a consensus on that subject. There is not a consensus on how to do it, but that we should do it.

Of course we have met very regularly with members of the textile industry, the apparel industry, retailing industry, staffs and members of Congress who have an interest in textiles so that the position that we take is understood, and we have support for it.

Mr. ROGERS. Well, there is some significant concern that a proper period of time for the integration of the new process, if it is approved, will be needed by our domestic implemented industry.

Let me ask you what assurance you can give to those who are concerned that that transition will be a fair one for the domestic industry?

Ambassador HILLS. Just that we talked to the domestic industry, and as with reforms in other sectors, we are talking about a reasonable period of time. The time for textiles that I have heard is somewhere between 8 to 12 years, 8 to 10 years, something like that. Some of our trading partners have urged 5 years.

I cannot tell you how the negotiations will come out, but we are not talking about moving from one system to another overnight.

Mr. ROGERS. Thank you very much.

Ambassador HILLS. Surely.

Mr. SMITH. Mr. Carr?

Mr. CARR. Thank you, Mr. Chairman.

Nice to see you again.

I want to agree with Hal. I think you are doing a good job, and I do not know how you are going to meet the challenges of the future with a cut in the budget. It seems to me this is an agency we ought to be expanding instead of cutting and contracting.

I know your time is short so I am going to try to be as brief as I can and allow the other members to ask you a few questions so you will not have to come back.

So I will submit some of my questions for the record, Mr. Chairman, if that is all right. I would like now to engage in three areas of discussion.

INTELLECTUAL PROPERTY

My first is a positive one where I understand you have a great track record, and that is in the area of intellectual property. I happen to be Chairman of the Congressional Arts Caucus, and it is one of the areas that the 250 members of the Congressional Arts Caucus have a special affinity for. Of course, that is subject to the GATT Uruguay Round. We really need to do all we can in Congress to support you in the efforts of protecting our intellectual property.

In that regard I would like to just ask you how are you progressing in discussions with Japan?

Ambassador HILLS. Japan in the Uruguay Round is fairly supportive on the intellectual property negotiations. We have differences with respect to how Japan implements its own patent system. It takes far longer in Japan to get a patent than it does in our country. They have compulsory licensing, as do many of our trading partners, with which we disapprove. Canada also has compulsory licensing in their system. So that our approach with respect to intellectual property is to negotiate it multilaterally in a round.

Mr. CARR. How about copyrights? I understand that in Japan they do not recognize a copyright of a set song——

Ambassador HILLS. Ah, yes.

Mr. CARR [continuing]. Earlier than 1978, and a great deal of America's intellectual property wealth is prior to 1978.

Ambassador HILLS. We have brought to Japan's attention our grave concern also because it discriminates. It is only non-Japanese intellectual property that is not protected before 1978.

There is a further discrimination in the rental of new intellectual property which we can restrict for a year, or some period of time. Japan does not let a non-Japanese new product have any protection for that year, and we feel that very frequently our recordings are copied. So we are in negotiations to try to remedy that on a bilateral basis.

Mr. CARR. I understand that the EC is going to move to a 50 year life, something around that; is that correct?

Ambassador HILLS. For the main—you mean on sound recordings?

Mr. CARR. Yes.

Ambassador HILLS. They are seeking to harmonize their rules. I do not know how they will come out.

Mr. CARR. Closer to 50 than for the Japanese standard, I guess, right?

Ambassador HILLS. I cannot tell you. They are having some difficulty. Our difficulty with the EC intellectual property is with software and their willingness to permit—they call it decompilation. I call it reverse engineering. That presents a problem because we are very competitive in software.

AVIATION SERVICES

Mr. CARR. Well, I just wanted to let you know that we support you in those particular efforts.

One where I probably do not support you, as I understand your position to be, is inclusion of the airline industry as a service in the Uruguay Round.

Ambassador HILLS. We were in the midst of a negotiation. What we have tried to do is to put all the services on the table and to talk about principles like transparency, most favored nation status, national treatment, and right to establish. Quite honestly, as a negotiating tactic from our point of view, we would rather not debate what is on or off. We think that products probably will not be as broad as some suggested, but I would be happy to talk with you on that issue.

Mr. **Carr.** Well, I just wanted to get out the flag for a major concern. I am also a member of the Transportation Appropriations Subcommittee. I try to monitor aviation as best I can.

Are you talking to DOT about this?

Ambassador **Hills.** Oh, yes.

Mr. **Carr.** What are they saying?

Ambassador **Hills.** They are working closely with us.

Mr. **Carr.** What are they saying to you besides working closely with you? Are they generally in favor of the position you have taken or have they expressed some quarrels with it?

Ambassador **Hills.** What I would like to do is brief you off the public record, because it does not help me in a negotiation to give the back room talk.

Mr. **Carr.** Well, I can understand that, and I would like to discuss this with you because I know there is a growing body of feeling on Capitol Hill, maybe some in your favor, but I know many in the position that I hold. We are well governed in international aviation by the bilateral agreements, and unless something is broke, we should not be trying to fix it.

While I can appreciate there might be some academic thoughts about how we move forward in services, and aviation can be part of that big picture, I think a lot of convincing needs to be done on Capitol Hill if we are to support the final end product of what you are doing.

CUT FLOWERS

Then my last thing, and I will just mention it, I have some questions for the record. Michigan State University is in my district. It has a great horticulture school, and they pay a lot of attention to the flower business around the country, even though we do not grow a lot of flowers in Michigan. There is a nasty little problem apparently with Colombia and the idea of dumping. There is a feeling that our country—because of a lot of other things—not to mention the drug war, is apparently loosening restrictions on Colombia relative to some of their trade practices. I know that you already know that it impacts on some of our commodities, and flowers are among them.

I hope that your office, as it considers the issue, will not be encouraging the President's waiver of the generalized system, the present system, so that we can try and maintain our small and dwindling competitive position in flowers.

Ambassador **Hills.** Thank you.

Mr. **Smith.** Mr. Regula.

Mr. **Regula.** Thank you, Mr. Chairman.

I guess I, for one, Ambassador, am not too upset about you reducing your budget. That is a good example for American industry. We have said to them repeatedly, if you are going to compete, you have to be lean and mean, and you have got to get efficient. So you are setting a good example, and I like that. I would be happy to support the reductions.

Secondly, good job on the VRA negotiations. Linn Williams, I think, did a superb job, and it was obviously with your leadership, and also your aides in my district did a super job talking to some groups.

I have three other complicated questions, and I think I will submit those for the record. It involves ECAT, and so on. So if you will respond to those on the record.

CANADIAN FREE TRADE AGREEMENT

You mentioned the Free Trade Agreement with Canada. I, in reading the financial magazines, get mixed reviews on particularly the Canadian side that they are somewhat concerned that perhaps they got a bad deal.

What is your observation in your negotiation thus far in the implementation of that agreement?

Ambassador **Hills**. I think it has worked well. It has only been in place for a year, and in that year we have reduced tariffs to the amount of $6 billion requested by entrepreneurs on both sides of the border, which tells you something is working. It broke about 50/50. It didn't grow one way or the other.

We are an impatient people. I expect the Canadians are too. It is too early to have a long string of successes. We have used the panel. It worked well. We have gotten a very quick response on our disputes so that they do not fester. So I say it is a very positive thing and we are going to reap the benefits in the future, far more benefits than we have already seen.

Mr. **Regula**. And they likewise will profit.

Ambassador **Hills**. I think they will. Now, the Canadian dollar gained a little strength this year. So I think that, more than the Free Trade Agreement has not had as buoyant an effect upon the expansion of their trade. But, you know, those things have a habit of swinging back and forth, and I think they are going to find it to be a very constructive agreement.

Mr. **Regula**. Well, my impression was it tended to be by region and also by industry. I presume that is what may be your experience too, that there are some industries up there that feel the impact a little more than others and have apparently less enthusiasm for the agreement.

Ambassador **Hills**. I think that is true.

EUROPE 1992

Mr. **Regula**. How do you view the impact of EC—and I am thinking in terms of, let us say, a ten year time frame—how do you view what the impact will be on our relationship with Europe, and what do you think we in the Congress should be doing to perhaps create a more favorable environment for our own industrial economy to compete in that marketplace?

Ambassador **Hills**. Our most important concern is that as the EC proceeds to harmonize the rules amongst the 12 of them, and they bring down the barriers internally, that they do not erect them at the perimeter.

Mr. **Regula**. Agreed.

Ambassador **Hills**. That is very, very important.

Mr. **Regula**. Agreed.

Ambassador **Hills**. And so, we have to be vigilant so that when they come out with a directive that adversely affects our industry or puts up a barrier we are quick to mention it to them.

Now, they are not always going to bend to our wishes. They have protectionist industries within their continent just as we have protectionists within ours.

Second, if we are successful in the round so that we get some multilateral disciplines to which the EC will assuredly adhere, that will put us on the path toward more liberalized trade and fewer protections. That will go a long way toward, as I said earlier, expanding markets so that we can have greater trade, and that will generate greater wealth.

So those things over a ten year period will tend to be quite constructive in our trade relations with the EC.

Mr. **Regula**. So you see a diminishing set of barriers between the European group and the North American group over a period of time?

Ambassador **Hills**. It can go either way. We are quite vigilant to complain when we see a restriction go up. There were four or five this past year: banking, mergers, and acquisitions, trucking, and broadcast directive. They came out all right, all except the broadcast directive.

So the question is, can we continue to persuade them that keeping their market open, and keeping protections down is in their best interest as well as in ours. That it will strengthen the multilateral trading system and our trading relationship too. So it is not a zero sum gain, but there is gain on both sides of the Atlantic.

I think it is going to take a lot of watching over the next decade.

EASTERN EUROPE

Mr. **Regula**. Do you think the United States is positioning itself—and I am talking in terms of the private sector as well as the public—to capitalize on the developments in Eastern Europe vis-a-vis what Western European countries will be doing? Will we get left out of the dynamics of that situation, or do you think we are aggressive enough as a nation to take advantage of what probably is going to be an emerging market and will have a substantial impact on the world trade situation?

Ambassador **Hills**. We are working very hard to create a climate that is attractive for entrepreneurs, so that when they look at investment opportunities abroad the Eastern European nations, Hungary, Poland and Czechoslovakia, in particular, will be attractive markets.

I do think we are going to see over time East Germany be part of a united Germany. We cannot have a prediction today as to the success of the Soviet Union adopting market oriented policies, but it is working on a system of market oriented policies that will be attractive to industry.

We will do our level best to negotiate protections for our industry. I should not use the word "protections," I do not mean it in the literal sense. But those measures that will tend to make the climate hospitable: restrictions against the theft of intellectual property, market access openings, even treatment with respect to currency, the right to establish national treatment, most favored nation status. Those sorts of things which I think will tend to draw in American industry when they make the hard-headed business decision that this, rather than any other market, is the best place for them to be.

SUPER 301

Mr. **Regula**. Speaking of tough decisions, you had to make some on Super 301. Is it working well, in your judgment? Is it addressing the market access and also dumping?

Ambassador **Hills**. We have had some success with the 301's, particularly between the time when we told the trading partner that they were going to be a priority with us in the next 12 months and when we were actually designating them. I mean there is a 30-day window there, so we had some successes that we could tell you about, particularly with Korea and Taiwan. I think we accomplished a great deal.

We did cite, as you know, Japan in three areas, Brazil and India. We have had differing measures of success, but the time has not yet run out for those negotiations. I am very hopeful that Japan will see how necessary it is to achieve market openings in the areas of forest products, supercomputers and satellites, which were the targets of our 301 negotiations.

Mr. **Regula**. I think you are really saying that the fact that the authority exists has been useful to you in your negotiations.

Ambassador **Hills**. It is a rather good news/bad news story.

Mr. **Regula**. I yield.

Mr. **Smith**. Mr. Kolbe.

Mr. **Kolbe**. Thank you, Mr. Chairman.

Ambassador Hills, I certainly do not want you to go down and tell the President that Congressman Kolbe kept you from meeting with him, so I will try to keep my comments and questions as short as possible.

First, I would start off and let you correct the record. In response to a question, it was said that your personnel costs will be $678 million in 1991, and an increase of $440 million?

Ambassador **Hills**. No, no, thousand.

Mr. **Kolbe**. Thousand?

Ambassador **Hills**. Yes.

Mr. **Kolbe**. He added three zeroes to it.

Ambassador **Hills**. Yes.

Mr. **Kolbe**. Nobody here would be worried about your budget not being enough, if it was $678 million——

Ambassador **Hills**. Yes.

Mr. **Kolbe** [continuing]. Instead of $678,000.

Ambassador **Hills**. Yes. David Burns tells me that it is because of the pay raises, the mandated pay raises that our personnel costs have gone up $678,000, and of this our budget covers $440,000, and so we must absorb within the budget that we get $240,000 or $238,000, to be exact.

Mr. **Kolbe**. Since it came out as millions, I thought we should correct that.

Ambassador Hills, among the members of this committee and the Congress, there are not very many who are more philosophically inclined toward free trade than I am. It is a position that I have held for a long time. I believe very strongly in it. I think this country has prospered and grown through trade, and I think through GATT we have been able to expand the number of countries around the world that have joined us in enforcing the principles of free and fair trade.

TAIWAN

I would like to ask a question with regard to the application Taiwan has made to join GATT as a full member. I know you have seen the letter that the members of the Ways and Means Committee sent to the President on this matter, urging support for this. Obviously, Taiwan is an important country and is a model of economic development, it is our fifth largest trading partner and I believe the 13th largest trading nation in the world today.

I think the commitment they have made to developing trade and taking leadership warrants their membership in GATT. The letter that was sent to the President urges the creation of a working group to consider the Taiwan application, which, by the way, avoids one of the key political problems as to the name that it was going to be submitted under, by referring to it as the Territory of Taiwan, Penku, Kinnamin and Matsu.

Would you comment on your view on this and what the U.S. position will be on this application and how you see it at the present?

Ambassador HILLS. I cannot give you the Administration position, because we are still coordinating views, to determine what the position will be. The view of USTR is that there are many trade advantages, but, of course, our role is to coordinate administration policies. We have to take into consideration a number of other points of view and we will be taking an administrative position in the weeks ahead.

Mr. KOLBE. In the weeks ahead. When would you expect that the administration would take their position on this?

Ambassador HILLS. Well, as you know, Taiwan's petition is subject to the affirmative vote of our 97 trading partners in the GATT, so that——

Mr. KOLBE. Is there some annual process, where once a year they consider applications that need to be done, at a particular time?

Ambassador HILLS. No, at any time, but it can be blocked by one vote, so that there are——

Mr. KOLBE. It requires unanimity?

Ambassador HILLS. Pardon?

Mr. KOLBE. It requires unanimity?

Ambassador HILLS. Yes, and there are strong feelings about this petition, for a number of reasons, so that it is not only coordinating our trade position in the context of how we alone would see it, but how it fits into our overall negotiations at this time.

Mr. KOLBE. Has the People's Republic of China, the PRC, stated strong objections yet to this?

Ambassador HILLS. Yes, they have.

Mr. KOLBE. They are going to oppose the application?

Ambassador HILLS. They have opposed it. They are not a member, they do not have the standing to——

Mr. KOLBE. But they would have some influence with some countries that are, presumably?

Ambassador HILLS. Correct.

Mr. KOLBE. Assuming that the United States' position was to support this, do you think the outlook is very difficult for Taiwan's application?

Ambassador HILLS. Yes, I think that they regard this as something that is going to take some considerable effort.

Mr. KOLBE. And probably not something that will be accomplished quickly?

Ambassador HILLS. Probably it will take some time.

MEXICO

Mr. KOLBE. My other interest is Mexico. As you know, I have a great interest in our trade relations with Mexico, which have grown dramatically in recent years. The change that has been taking place in Mexico has been very dramatic in the last couple of years.

I have been an advocate of a free trade agreement similar to the one that the United States and Canada have negotiated. I believe if we are going to compete with Pacific Rim countries and the EEC, the North American countries need to have a similar agreement.

It has been the policy of the administration to pursue multilateral talks and not to consider bilateral opportunities, as long as the Uruguay Round of GATT agreement negotiations has been going on. But that schedule will be completed in another year or so, and I am wondering if you see a change in the administration's position with regard to bilateral agreements after that.

Ambassador HILLS. On point of fact, last October, the President signed with President Salinas an agreement that built upon the framework agreement. It is far more than an agreement that looks at trade problems, it tries to seize trade opportunities. It focuses on 11 areas; seeking to maximize the trade potential between the two countries.

We are not against bilateral agreements. We simply do not want to have a bilateral agreement that works at odds with getting a greater flowering in a multilateral setting and we are trying to build an institution at the GATT.

Mr. KOLBE. I understand that—and I am aware that my question is going to be on the TIF's, the Trade Investment Facilitation talks with Mexico. I guess my question is, do you see, once this GATT Uruguay Round is completed, a larger emphasis on these kinds of bilateral negotiations at that point?

Ambassador HILLS. We are always assessing trade opportunities. I think that the Mexican government has some political problems right now in publicly discussing beyond the Uruguay Round, but we have had quiet talks about advantages which led, in fact, to the trade facilitation talks. We implemented and signed an agreement and an action plan this fall.

Mr. KOLBE. I have an opportunity to travel fairly often in Mexico and the public statements are exactly as you suggest. I think the private statements are much more open toward the idea of this kind of free trade agreement than they were before. In fact, I think it is quite dramatic how far they have come in recent months in this area.

Let me just finally ask, very quickly, about the talks. How are the talks under this agreement, the Trade Investment Facilitations talks agreement, proceeding?

Ambassador HILLS. They are proceeding, not with as much energy as I would like, but I have nothing but admiration for what the Salinas government has been able to accomplish in a very crowded agenda. They have brought down their tariffs, they have opened up their markets, they have liberalized their investment, they have totally liberalized their tariff market. They have taken some very courageous stands and we are continuing to work with them in these various 11 areas, while our talks are ongoing in the Uruguay Round. So we are all pretty busy but we will continue to talk with them.

They will be hosting the informal ministerial of about 27 nations in April. We will have opportunities to talk with them then and I talk to my counterpart probably once a month.

Mr. KOLBE. Are you optimistic about the long-term outlook for trade between our two countries?

Ambassador HILLS. Absolutely.

Mr. KOLBE. Finally, I realize that you did not negotiate the settlement on the debt, although you certainly are watching it very carefully because it is a matter of great importance. Is there any concern being raised in Mexico now on the trade and new investment that is needed as a result of achieving that agreement, to restart the growth in that country, particularly in light of the investment-needy economies of Eastern Europe? I am wondering if this is a matter of concern, that Mexico will be able to achieve the kind of investment it needs.

Ambassador HILLS. There will be competition for capital resources and that is why it is so important for countries, whether they be Mexico or others south of our border or even Eastern Europe, to adopt measures that are attractive to the investor.

You cannot complain when an investor does not want to put his capital in your jurisdiction, if you have high risk and problems connected with that investment. So, of course, there are concerns expressed. There will be competition for the capital that is available, but I think Mexico is going in the right direction. For the reasons I earlier said, I think that the measures that they have adopted make them more attractive to foreign investment and they have, through their debt negotiations, stopped greatly the flight of capital from their country. So, all those things will tend to strengthen and be constructive for their economy.

Mr. KOLBE. Thank you, Ambassador Hills. I join my colleagues in saying how much I appreciate the work you do under very difficult circumstances. I believe you represent our country very well.

Ambassador HILLS. It is nice of you to say that. Thank you.

Mr. KOLBE. Thank you.

Mr. SMITH. I think we can take care of the rest of this through questions for the record. If we cannot, we will get in touch with you.

Ambassador **Hills**. I would be pleased to come back. I know that David Burns would be pleased to answer any technical questions that you have, if you would like him to stay.

Mr. **Smith**. Well, we will see. For now, that will be enough, but we may call you later.

Thank you.

Ambassador **Hills**. Thank you very much. I appreciate your time this afternoon.

Mr. **Smith**. We appreciate yours as well.

[The following questions were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY MR. SMITH

FISCAL YEAR 1990 BUDGET REQUEST

Authorization Changes

QUESTION 1.

Are you seeking any significant changes from previous years' authorizations? If so, please briefly describe those for us.

ANSWER 1.

USTR's authorization language has set aside an additional amount of $1.5 million of no-year spending authority designated only to support the binational panels under Chapter 19 of the U. S. Canadian Free Trade Agreement.

FY 1991 Staffing

QUESTION 2.

Your FY 1991 budget request indicates a decrease of four positions and accompanying workyears from the current level of 156. I understand you are currently working with OMB to have these four positions restored. Does the request we have before us include adequate funding in the personnel and benefits categories for the full staffing level of 156 positions?

ANSWER 2.

The FY 1991 USTR budget request includes funds for 156 FTE.

QUESTION 3.

What would be the impact on your 1991 activities if you are unsuccessful in having these four positions restored?

ANSWER 3

If USTR were not to have the four positions restored the computer and support staffs would have to be decreased. We do not expect this to happen, however.

CFTA Chapter 19 Panels

QUESTION 4.

In the past, USTR's appropriation language has set aside a small amount of no-year spending authority, primarily to handle currency exchange problems of the Geneva office. In 1991, the amount of no-year authority is proposed to more than double (from $1 million to $2.5 million). The increase of $1.5 million is designated only for support to binational panels under Chapter 19 of the U.S.-Canada Free Trade Agreement.

a. **Why is it necessary that this amount for the panels be available until expended?**

b. **Is the $1.5 million the total amount required for this program in FY 1991?**

c. **What was the total amount funded for this activity in FY 1990? Do you know how much of that amount has been spent to date this fiscal year?**

d. **Does USTR transfer the entire amount to the Department of Commerce at the beginning of the fiscal year, or do you reimburse Commerce as funds are actually obligated for the settlement procedures?**

e. **If the actual case volume is higher than the level anticipated by the Department of Commerce, could additional costs be absorbed by your Office?**

ANSWER 4.

a. Expenditures on CFTA panelist costs are difficult to predict, and yet must be covered. It is desirable to establish an account such that funds not expended one year can remain. In the long run, this should reduce expenditures.

b. Yes. $1.5 million is the anticipated amount required by the U.S. Section of the FTA binational Secretariat for FY 1991. The calculations are necessarily estimates with regard to the duration of cases and projected expenditures. Please see the attached calculations.

c. USTR was allocated $1 million for Chapter 19 panels in FY 1990. To date, the Department of Commerce has expended $94,326.59, for Chapter 19 panel expenses.

d. USTR reimburses Commerce on a quarterly basis.

e. The U. S. Section of the FTA Binational Secretariat at Commerce will work with USTR should the expenditures in Chapter 19 panels exceed appropriated levels. The Department of Commerce requested that language be included in their appropriations bill for an exemption from the Miscellaneous Receipts Act for reimbursements from the Canadian Government for its share of Chapter 19 expenses (see Attachment A). This money could be available for all panels, including Extraordinary Challenge Committees convened under Chapter 19 panel reviews.

USSR MFN Status

QUESTION 5.

Earlier this month, the Administration announced its intent to negotiate an agreement granting most-favored-nation (MFN) trading status to the Soviet Union. Have those negotiations begun?

ANSWER 5.

Yes, the United States and the Soviet Union have held three sets of talks aimed at reaching a trade agreement. A fourth round is scheduled for April 24-27 in Paris.

QUESTION 6.

Can you tell us anything about the progress to date?

ANSWER 6.

Progress has been good although much work remains. Both sides are working very hard to adhere to the schedule set by the Presidents. I would say that there has been rough agreement on approximately half of the draft U.S. proposal.

QUESTION 7.

Is it really feasible to expect this agreement to be completed in time for the June meeting between President Bush and Soviet President Gorbachev -- especially considering that the Congress must first agree to a waiver of the Jackson-Vanik amendment?

ANSWER 7.

We certainly hope so. Our negotiators have set the end of April as our goal, to allow time for both sides to review and approve the pact in advance of the June Summit.

Eastern Europe

QUESTION 8.

During these negotiations with the Soviets, do you anticipate any discussions on other trade issues, such as Soviet participation in the GATT?

ANSWER 8.

No, we do not.

QUESTION 9.

Could you briefly summarize the status of trade talks with Eastern European countries? To what extent are these negotiation activities reflected in your 1991 budget request?

ANSWER 9.

The President signed a Business and Economic Treaty with Poland that will offer U.S. investors certain protections and advantages in the Polish market, in addition to strengthening intellectual property protections and business facilitation. I have just signed (April 12) a Trade Agreement with Czechoslovakia, and we are negotiating an investment agreement. The Trade Policy Review Group and its Subcommittees on Eastern Europe have conducted preliminary reviews of the other East European countries, but no negotiations have been held yet. We have requested an extra slot for the Office of Europe and Mediterranean Affairs, as well as a new Deputy Assistant USTR for Eastern Europe.

QUESTION 10.

Which of these countries have been designated most favored nation status to date? With which other countries are you currently negotiating either to grant MFN status or to develop other trade agreements?

ANSWER 10.

I have attached a matrix which my staff developed that reveals which East European countries have MFN status, which are in GATT, and which are eligible for GSP. I noted the status of our different talks in the answer above. (Attachment C)

Uruguay Round

QUESTION 11.

The current round of the GATT talks -- the Uruguay Round -- is scheduled to close during the first quarter of FY 1991. Could you give us a brief update on the status of those talks, particularly in regard to agricultural products?

ANSWER 11.

The final year of negotiations in the Uruguay Round are the most difficult of the four-year negotiation. The negotiations are scheduled to conclude in December 1990 at a Ministerial meeting hosted by the EC. This means that the most intense negotiating phase is ahead of us. In terms of progress, the negotiating schedule calls for a meeting of the Trade Negotiations Committee in July. Delegations are aiming to push towards agreement in as many areas as possible by July, narrowing the key political differences for Ministerial consideration and turning to the questions of relating the various agreements to the GATT. We have pushed our trading partners to proceed expeditiously in the negotiations. It is difficult to speculate at this point on the progress that can be expected by July.

In all areas, negotiating proposals are on the table and texts are underway informally, if not formally. With respect to agriculture in particular, the Committee's attention is drawn to a full report from the President to the Congress dated February 15, 1988 pursuant to Section 4301 of the Omnibus Trade and Tariff Act of 1988 which provides substantial details on the current negotiations in agriculture. Agriculture is a central issue in the negotiations and remains as one of the most difficult in the negotiations.

QUESTION 12.

Your budget justifications indicate an increase in the amount of funds designated for the Uruguay Round in 1991, even though the Round is to be completed early in the fiscal year. What types of follow-up activities will USTR be involved in after conclusion of the framework agreements?

ANSWER 12.

The negotiations are scheduled to "conclude" at the December 3-7 1990 Ministerial meeting to be held in Brussels. We foresee substantial negotiating efforts in the first part of the fiscal year to complete the negotiating schedule, in addition to U.S. participation in the Brussels Ministerial.

Once the agreements are concluded in Brussels, there will likely be technical work required on the agreements and a need to assure that the agreements are understood and approved domestically and internationally. In some instances, agreements may require some modification of the General Agreement or other international procedures to gain acceptance. At the international level there will have to be agreements on date of implementation and follow up work to implement concessions. We would also expect that the GATT would have considerable additional follow up work in implementing the agreements in many areas -- particularly the new areas -- services, intellectual property and investment and agriculture. Since one aim of the negotiations is to bring substantially all trade under the GATT, it is likely that the GATT's workload will increase.

Domestically, the Administration will have to have extensive consultations with the Congress and private sector on the agreements and implementing legislation. Once implementing legislation is approved there can be expected to be considerable follow up domestically in terms of implementing the agreements and representing the United States in the agreements.

QUESTION 13.

Is it possible that the Uruguay Round could be extended if agreements are not completed by December 1990?

ANSWER 13.

The statute does provide rigorous procedures for the President to seek an extension of negotiating authority. While it is possible, we have advised our partners of our intention to complete the work on schedule.

Uruguay Round - Staffing

QUESTION 14

Will the end of the Uruguay Round of negotiations have an impact on the staffing level for your Geneva office? Please provide for the record the current staffing level for the Geneva office as well as the anticipated level for FY 1991.

ANSWER 14

USTR Geneva office has a projected staff of 26: 10 FTE, 10 Contractors and 6 detailees. We anticipate a decrease in the FY 1991 non-ceiling staffing of approximately 4: 2 contractors and 2 detailees.

EC 1992

QUESTION 15.

What role do USTR representatives carry out in relation to other U.S. participants (such as Department of State and Department of Commerce) in ongoing European Community negotiations?

ANSWER 15.

USTR is the President's trade coordinating and negotiating office. We have coordinated the Administration's response to each of the trade and economic issues raised by the EC's single market program. Early on, the Administration realized it had to apportion the analytical work to agencies with the relevant expertise. The Department of Commerce has led the charge on standards, the Departments of State and Transportation on civil aviation, the Treasury Department on banking. USTR has taken the lead on procurement and rules of origin. As Chairman of the Interagency Task Force on 1992, USTR's role is to make sure all our efforts are coordinated and targeted for maximum effect. Where negotiations are necessary, USTR will conduct them in the appropriate fora.

Representation Funds

QUESTION 16

Last year the USTR received an increase of $20,000 (from $69,000 to $89,000) in the amount set aside for representation expenses. You are proposing to increase the amount by another $9,000 (to $98,000) in FY 1991.

a. How do you justify a representation allowance higher than that for both the U.S. Information Agency and the entire Department of Justice?

b. Please provide for the record a breakout of the Office's actual representation expenses in FY 1989, and anticipated expenses for FY 1990 and FY 1991.

ANSWER 16

a. The FY 1990 representation increase was to support the increased pace of Uruguay Round and there has also been increased activities in other areas such as bilateral negotiations, Section 301, steel, GATT, Europe and Mediterranean. As our role has expanded, so has the number of important visitors we receive. We must also try to reciprocate at least some of the extensive hospitality we receive abroad.

b. See attachment for FY 1989. USTR anticipates full utilization of the FY 1990 and FY 1991 representation allocations in support of all the increased activities for the Uruguay Round and other areas.

FAAS Charges

QUESTION 17

Last year the USTR requested an increase to the base to cover additional Foreign Affairs Administrative System (FAAS) costs resulting from the State Department policy change. Of your final enacted FY 1990 level (after sequestration), what amount was set aside for FAAS charges?

ANSWER 17

USTR requested a technical increase of $274,000 to cover cost for the FAAS support in FY 1990 with a planning level of $418,000.

QUESTION 18

What has been your bill for FAAS charges to date in FY 1990, and what is the total amount you currently expect to be billed in this fiscal year?

ANSWER 18

The current FAAS bill is for $514,000 and there is a possibility this could increase when the third quarter billing is completed. This will be after the State Department Mid-year review.

QUESTION 19

Have you requested funds again in FY 1991 to cover FAAS charges? If so, what amount?

ANSWER 19

FY 1991 FAAS support cost planning number is $430,000, which is a 3% increase over FY 1990.

QUESTION 20

Are you aware that the State Department has reversed its policy and is including these funds in their own budget request again in FY 1991?

ANSWER 20

Yes, but we are uncertain as to what the specific implications will be for USTR. State is unable to provide specific guidance at this time.

QUESTIONS SUBMITTED BY MR. EARLY

FISCAL YEAR 1991 BUDGET REQUEST

FY 1990 Sequester

QUESTION 1.

What is the amount of the sequester for the Office of the U.S. Trade Representative?

ANSWER 1.

The sequestered amount for USTR FY 1990 was $222,000.

FY 1991 Budget Request

QUESTION 2.

What is the total cost of the January 1990 pay raise for the USTR and what is the cost of the pay raise for Senior Executives?

ANSWER 2.

The total cost for the January 1990 pay raise for USTR in FY 1990 will be $213,000, of which the executive schedule portion amounts to $71,000.

QUESTION 3.

How will the Agency absorb this cost? What impact will these reductions have on the Agency and its ability to carry out its mission?

Will these reductions have any effect on staffing levels or the length of time positions must remain vacant?

ANSWER 3.

USTR was able to absorb some of the pay increase by eliminating one contract position.

Beyond that, the increased costs must be covered by foregoing other activities such as staff training, all but the most essential travel, reducing overtime, etc. At this point, these costs can be absorbed without additional effects on staffing and will not effect the ability of the Agency to carry out its mission.

QUESTION 4.

Do you anticipate any other shortfalls which would require you to reallocate resources?

ANSWER 4.

We do not know at this point in the fiscal year. Resources are extremely tight and demands on these resources are increasing as we move into the heart of the Uruguay Round of international trade negotiations. Heavier than anticipated travel associated with Eastern European trade talks and the Round could strain resources severely. A currency swing in the value of the Swiss franc relative to the U. S. dollar, a rise in support costs paid to State for the Geneva Office, or Chapter 19 panelist fees higher than budgeted could also have a heavy impact.

QUESTION 5.

What is the full year cost of the FY 1990 pay raises in FY 1991? How much is included in your 1991 request for this purpose and how much are you being required to absorb?

If you are absorbing this cost how are you doing so?

ANSWER 5.

The FY 1991 request for pay increase is $678,000. USTR will be absorbing $238,000 by decreasing contract services support and absorbing the remainder within our current services base. Planned equipment purchases will have to be reduced or eliminated.

QUESTION 6.

Your opening statement summarizes the enormous trade challenges that confront the United States and the wide array of significant responsibilities that you will be addressing in FY 1991 -- including completion of the Uruguay Negotiating Round, implementation of the Trade Act and the U.S.-Canada Free Trade Agreement, various bilateral negotiations, EC 1992, and the initiation of negotiations with Eastern Europe and the Soviet Union. You characterize the USTR as "a small agency with a big mission." You also have a very small budget. From a professional viewpoint, is this budget request really adequate for the important tasks facing the USTR?

ANSWER 6.

USTR feels the FY 1991 budget request is adequate to meet the mandates given and fulfill its mission. In carrying out our tasks within this budget, we will have to continue to rely heavily on support from the rest of the trade community for personnel resources. Our philosophy continues to be aimed at keeping USTR as small as possible consistent with fulfilling our mission. It will not be easy and resources will be scarce.

QUESTION 7.

You also indicate in your opening statement that after salary increases and inflation are taken into account, the USTR will have a lower level of real resources available to it in FY 1991 than FY 1990. How do you plan to meet your increased workload and expanded responsibilities with declining resources?

ANSWER 7.

USTR is staffed with extremely dedicated professionals. With the cooperation of other agencies, we can fulfill our mission. No one is under any illusions that this will be easy, however.

Foreign Trade Offices

QUESTION 8.

Do Foreign Governments have Agencies or Offices with responsibilities similar to yours?

And, could you give us some idea of the resources these governments allocate to these agencies or for such activities? Comparatively speaking, where do we stand?

ANSWER 8.

The organization of the trade policy formulation process in the United States appears to be unique among our major trading partners. For the most part, international trade matters are handled in foreign governments by departments or ministries with responsibility for external affairs or, in some cases, industry and trade. The size and internal organization of these offices varies, but they share a common problem. Since by their nature trade issues cut across a broad range of interest groups and sectors, any number of other departments or ministries will have a voice in international trade matters.

The fact that the Office of the United States Trade Representative has been established as a Cabinet-level agency with mandated coordination powers places it in a unique position whereby it can remain small enough to react quickly and decisively to trade-related problems and still effectively turn to larger agencies for assistance and implementation.

USTR has among its principal responsibilities developing international trade policy and coordinating its implementation. This is accomplished through an interagency trade policy mechanism administered and chaired by USTR. Although our staff is relatively small, USTR utilizes the resources of fourteen other agencies which are by statute part of the trade policy mechanism. The expertise and resources of additional agencies are also available on a case by case basis.

OMB Budget Submission

QUESTION 9.

What was the FY 1991 USTR budget submission to OMB?

What items were eliminated from your request by OMB and what impact will those reductions have on USTR's ability to carry out its mission?

For the record, please provide a breakdown of the USTR submission displaying, by object class, your submission to OMB and your Congressional Submission. Also indicate the number of positions and contract personnel, if any.

ANSWER 9.

The USTR FY 1991 budget request to OMB was $23,250,000.

The following was eliminated from the USTR FY 1991 request to OMB:

$550,000 additional funds for the Chapter 19 Canadian Free Trade Agreement.

$1,250,000 for Computer System upgrade.

$225,000 furniture request.

$754,000 for 8 additional FTE and additional reimbursable detailees.

$238,000 additional pay increases.

$665,000 for Uruguay Round Travel, transcribers, translators, consultants and contract support.

$540,000 technical increases beyond inflation to Washington guard service, computer leases, Geneva FAAS support, rents and leases.

$92,000 for Washington and Geneva offices phone upgrades.

USTR will be able to fulfill its mission by continuing to rely on detail support from other agencies and by restricting the use of its funds very carefully.

See Attachment E.

Inflation Rate

QUESTION 10.

The Administration is assuming an inflation rate of 4.1% for 1991. However, your budget justification reflects an inflation factor of only 3%. To what is this difference attributable? Is the Agency being required to absorb a portion of inflation related cost increase in its base?

ANSWER 10.

The Office of Management and Budget used the same deflator for USTR as for other agencies. The difference comes from the fact that OMB adjusted the base for non-recurring items in the FY 1990 request.

Exchange Rate

QUESTION 11.

What was the exchange rate level assumed at the time you submitted your request and what is it now? What is your allocation for Geneva in FY 1991 and what would that be now reflecting current exchange rates?

ANSWER 11.

The exchange rate level assumed at the time USTR submitted its request was $1.00 = 1.50 swiss francs. The exchange rate now is $1.00 = 1.50 swiss francs. The FY 1991 allocation for Geneva is $2,567,000 based on $1.00 = 1.50 swiss franc. The current exchange rate seems to be stable at this time.

Interagency Support

QUESTION 12.

How much support will USTR receive from other agencies for trade negotiations in FY 1990, and what do you anticipate for FY 1991?

ANSWER 12.

USTR expects to have about 40 detailee positions for most of FY 1990 from various agencies within the trade community. (The number fluctuates somewhat.) We hope to have the same level of support for FY 1991.

QUESTION 13.

How many people do you expect to have detailed from other agencies in FY 1990? FY 1991? How many of these detailees are reimbursable? How many are non-reimbursable?

ANSWER 13.

As noted above, the projected number of detailees for FY 1990 is 40; 5 are reimbursable and 35 are non-reimbursable. USTR hopes to have the same number of detailees in FY 1991.

Trade Act of 1988

QUESTION 14.

The budget justification indicates that the Trade Act of 1988 has had a "very significant resource impact" on the agency. First, would you give us some detail as to how the Trade Act has impacted on the Agency's workload? Second, would you quantify the impact this legislation has had on the Agency's resources? And, finally, would you tell us the steps you have taken to address this situation?

ANSWER 14.

At the end of FY 1989, there were 16 active section 301 investigations requiring USTR staffing, and 3 draft 301 petitions (which potentially could be filed in FY 1990) also requiring USTR resources. (This compares with 9 active investigations at the end of FY 1988, plus 3 petitions being reviewed that did not result in an investigation, and 3 draft petitions being reviewed at that time also.) Under the 1988 amendments to the Trade Act, most 301 cases must be concluded within 12 to 18 months.

The number of staff hours required for an individual investigation varies widely from case to case. Each investigation is usually staffed by a 3-member team within USTR: a country specialist, a sectoral specialist, and a lawyer from the General Counsel's office. In addition, the chairman of the interagency section 301 Committee coordinates the interagency process and supervises the work of the lawyer assigned the case. So in most cases, a minimum of 4 USTR staff devote time to a 301 investigation at many phases of the investigation. If the case results in GATT dispute settlement, the legal advisor to the USTR/Geneva delegation participates as well. In addition, if bilateral negotiations with the foreign government are close to reaching a settlement, the appropriate Assistant USTR or Deputy USTR are very often involved, as is the USTR herself in many 301 negotiations. Therefore, a rough estimate of the average time spent per investigation is a range of 500 to 1500 staff hours, with cases involving dispute settlement (under the GATT or the Canada FTA) requiring the most amount of time.

At the end of FY 1988, 1 of the 12 active 301 investigations on the USTR agenda was being litigated in GATT dispute settlement. At the end of FY 1989, 4 of the 16 investigations involved dispute settlement (3 in the GATT and 1 under the Canada FTA). In the first half of FY 1990, 3 more 301's are expected to be the subject of GATT litigation.

The Office of the General Counsel has increased its staff to handle the heavy section 301 caseload, particularly cases that go to dispute settlement.

CFTA Chapter 19 Panels

QUESTION 15.

Your budget request includes $1.5 million for dispute settlement procedures under the U.S.-Canada Free Trade Agreement, based on estimates of the Department of Commerce of a significantly increased workload in this area. How much of an increase is expected and how was the dollar figure arrived at?

ANSWER 15.

See attached calculations provided by the Department of Commerce. (Attachment A).

FY 1991 Staffing

QUESTION 16.

The justification indicates that the Agency is proposing four fewer FTEs for FY 1991. Why are you proposing this decrease and what impact will it have on your ability to carry out your responsibilities?

ANSWER 16.

OMB authorized a one year increase of four permanent positions to absorb two contractors and two temporary support staff positions. This action saved USTR funds. This was a technical increase for FY 1990 only. We expect OMB to reauthorize these positions in FY 1991 which means there should be no impact on USTR's ability to carry out its responsibilities.

FY 1991 Budget

QUESTION 17.

You've indicated that USTR's discretionary resources are virtually nil. Do you think that the USTR should have some discretionary resources available to it to meet unanticipated needs?

ANSWER 17.

USTR anticipates getting the most out of its appropriated resources by continuing to enlist the support of other agencies and by restricting the use of its funds very carefully. This should enable USTR to absorb any unanticipated needs.

QUESTION 18.

Although the FY 1991 budget request includes some increase in travel funds, you've indicated in your statement that travel is carefully restricted to the most essential trips. Given your work agenda for FY 1991, do you feel that the budget request includes sufficient funds for travel?

ANSWER 18.

The funds allocated for USTR's travel will be sufficient.

Super 301 Activities

QUESTION 19.

Would you bring us up to date with regard to the USTR's Super 301 activities.

ANSWER 19.

On May 26, 1989, the USTR submitted to the Congress the Administration's first report of trade liberalization priorities under Super 301. Super 301 requires the identification of priority practices and countries for the self-initiation of investigations under section 302. Our second Super 301 report is due no later than April 30 this year.

In identifying our trade liberalization priorities last year, we gave highest priority to a successful conclusion of the Uruguay Round negotiations by December 1990. We also identified specific practices which, in addition to being serious barriers to trade, are emblematic of broader areas of concern to the global trading system.

In accordance with the Super 301 statute, on June 16, 1989, we self-initiated investigations under section 302 of the Trade Act (popularly called "301 investigations") on each of the six priority practices identified: Brazil licensing, India insurance and investment, and Japan satellites, supercomputers, and forest products.

In investigations initiated as a result of the Super 301 process, the statute requires the USTR to seek to negotiate agreements which provide for the elimination of, or compensation for, the practice within three years. We are doing so in talks with the governments of Japan, India and Brazil, and will continue those efforts over the coming months.

If no agreement is reached, the USTR must determine whether the practice under investigation violates a trade agreement or is unjustifiable, unreasonable, or discriminatory and therefore actionable under section 301. If a practice is deemed actionable under section 301, then the USTR must also determine what retaliatory action, if any, should be taken under section 301, subject to the direction of the President.

The timing of these determinations, and the degree of discretion with respect to retaliation, depend on the type of practice involved:

- Practices that violate a trade agreement. In investigations involving a violation of the GATT (which is the case with respect to Brazil's import restrictions), USTR is required to request GATT dispute settlement proceedings, which we have done. The actionability and retaliation determinations must be made either 30 days after the conclusion of dispute settlement proceedings, or 18 months after initiating the investigation (by December 16, 1990), whichever is earlier. Where a trade agreement is violated, the USTR is required to retaliate unless a specific statutory exception applies. For example, retaliation is not mandated if it would harm our national security interests, or if the economic cost of retaliation to domestic interests would outweigh its benefits.

- Other actionable practices. In investigations of practices not principally involving the violation of a trade agreement (which is the case in the three Japan investigations and the two India investigations), the actionability and retaliation determinations must be made 12 months after initiating the investigation -- by June 16 of this year. Where there is no violation of a trade agreement or other international obligation, the USTR has discretion in deciding whether to retaliate.

As we did last year, we are seeking comment and advice from a broad range of parties for this year's Super 301 process. The interagency Section 301 Committee is now in the midst of obtaining the views of the Congress and the private sector. Public comments were due February 19, and we received several submissions which we are now reviewing. We also reviewed the information obtained in the course of preparing the National Trade Estimate report, submitted to Congress March 31, 1990.

QUESTION 20.

The budget justification indicates that with the changes in the Trade Act, there has been a substantial increase in the Contentiousness and complexity of Section 301 cases. Would you expand on that?

ANSWER 20.

The chart below reflects section 301 activity in FY 1988 and FY 1989. When we have been unable to resolve a matter through consultations, we have resorted to dispute settlement proceedings, particularly in complex and contentious cases.

Active cases end of FY 88:

301-44 Argentina couriers
301-53 Argentina soybeans
301-55 Canada fish
301-61 Brazil pharmaceuticals
301-62 EC meat hormones
301-63 EC oilseeds
301-65 Korea beef*
301-67 Korea wine
301-68 Argentina pharmaceut.

Petitions under review that did not result in investigation:

Japan rice
Korea motion pictures
Canada duty remissions

Drafts under review:

EC copper scrap
UK smokeless tobacco
Taiwan wine

Active cases end of FY 89:

301-55 Canada fish*
301-62 EC meat hormones
301-63 EC oilseeds*
301-65 Korea beef
301-68 Argentina pharmaceut.
301-69 Japan construction
301-70 EC copper scrap*
301-71 EC canned fruit
301-72 Thailand cigarettes
301-73 Brazil licensing
301-74 Japan satellites
301-75 Japan supercomputers
301-76 Japan forest products
301-77 India investment
301-78 India insurance
301-79 Norway toll equipment*

Drafts under review:

Taiwan rice
EC airline reservation systems
UK smokeless tobacco

*Involved in dispute settlement at the end of the fiscal year.

GATT Dispute Settlement

QUESTION 21.

In general, when a favorable ruling is obtained from a dispute settlement panel under GATT, does the offending country comply with the ruling? What happens if it fails to comply?

ANSWER 21.

Thirty days after a panel report has been circulated to the contracting parties, it is placed on the agenda of the next scheduled GATT Council meeting for discussion and adoption. The Council adopts a panel's findings and recommendations by consensus, and the Contracting Parties (CPs) formally adopt all Council decisions at the annual CPs Session. Since a consensus must include the parties to the dispute, either party may block adoption, even if its position is not supported by other contracting parties.

Some panel reports are adopted at the first Council meeting where they are discussed, but more are adopted the second or third time they are on the Council agenda. Since many panel reports contain interpretations of GATT provisions, the panel's legal reasoning is often addressed in Council by several contracting parties, whether or not they have any direct trade interest in the outcome. Generally, however, if the parties to the dispute are willing to agree to adoption of the report, other contracting parties may express disagreement with the panel conclusions, but indicate they will not stand in the way of a consensus to adopt the report. In this way they might maintain they are not bound by the panel's interpretation of the GATT, as if they were entering a reservation on the legal conclusions. In fact, it is likely that if they have similar practices that are subsequently challenged in a GATT panel, the subsequent panel probably will rely on the precedent set by the earlier panel report.

Panel reports are "de-restricted" upon adoption, which means they can be made available to the public and used by governments to explain to domestic constituencies the basis for changing a policy or practice condemned by a panel. After a panel report has been adopted, the party subject to the panel recommendation must inform the Council of its intentions with respect to implementation. Six months after adoption, the issue of implementation is placed on the Council agenda and remains on the agenda until it's resolved. Ten days prior to each Council meeting, the party concerned has to submit to the Council a written progress report on implementation. Since this procedure entered into effect May 1, 1989, we have not yet had experience with this surveillance process.

If the party subject to an adopted panel recommendation does not implement the recommendation within a "reasonable period of time" (as yet undefined), the complaining party may request the Contracting Parties to authorize suspension of GATT obligations to the offending party -- in effect, to retaliate. The request is submitted in writing to the GATT Secretariat, for circulation to the Contracting Parties, and it should include the details of the proposed retaliation, including the amount of trade to be affected. The request is considered at a meeting of the Council, which is required to determine whether "the circumstances are serious enough to justify such action," and to determine if the proposed retaliation is appropriate in the circumstances (i.e., commensurate with the amount of nullification or impairment suffered by the complaining party).

Since such authorization has been granted only once in GATT history, there is no established procedure. However, in that one case the question of the amount of the proposed retaliation was considered by a working party, and the working party recommendation was adopted by the Contracting Parties. The two parties participated in the discussions in the Working Party, but did not participate in the framing of the recommendations to the Contracting Parties.

Japan

QUESTION 22.

What progress has been made in negotiations with Japan?

In what areas have agreements been reached and how many of them have been fully implemented?

ANSWER 22.

The Administration is pursing a broad array of multilateral and bilateral initiatives with Japan. On the multilateral front, the Uruguay Round is being used to seek elimination of barriers in agriculture and services as well as to ensure an end to government procurement practices that discriminate against foreign suppliers. The Administration has also launched a series of bilateral negotiations with Japan to open up specific Japanese industries and to address structural barriers to trade and investment, which are being attacked through the Structural Impediments Initiative (SII).

SII was launched in July 1989 to identify and resolve fundamental structural problems that impede trade and balance of payments adjustments. The U.S. has identified six major impediments to trade with Japan including savings and investment policies, land use policies, the distribution system, exclusionary and anticompetitive business practices, pricing mechanisms and the keiretsu cross-shareholding arrangements. Discussions are on-going with an interim report on the negotiations due in spring 1990 and a final report due by July 1990.

With regard to sectoral initiatives, Super 301 of the 1988 Trade Act identified three Japanese trade practices as priorities for investigation and negotiation: Japanese government ban on foreign satellite procurement; exclusionary practices in government procurement of supercomputers; and Japanese government policies and practices restricting forest product imports. Negotiations in these three areas are currently on-going, with a final report on these three areas of Super 301 due in mid-June. There are also a number of other bilateral sectoral issues under negotiation. On May 25, 1989, USTR placed Japan on a watch list of countries that afford insufficient intellectual property rights protection.

In the construction area, Section 1305 of the 1988 Trade Act required USTR to investigate the Japanese governments actions, policies and practices that bar U.S. architectural, engineering, construction and consulting services in Japan. An investigation was launched on November 21, 1988 and several rounds of consultations with Japan were held. In November 1989, USTR determined that certain Japanese government actions are unreasonable and burden or restrict U.S. commerce. Further, USTR determined pursuant to Section 304(a)(1)(8) of the 1974 Trade Act that no responsive action under Section 301 was appropriate at that time given Japanese commitments to continue negotiations. These negotiations continue. This includes a full May 1990 review of the "Major Projects Arrangements" concluded by the U.S. and Japan in 1988.

In telecommunications some progress has occurred. In April 1989 USTR determined under Section 1377 of the 1988 Trade Act that Japanese government policies and practices with regard to third party radio and cellular phone products and services were not in compliance with the telecommunications agreements reached under the Market Oriented Sector Selective (MOSS) agreements. An agreement was reached on June 28,1989 with regard to these two areas, and which should, when fully implemented resolve those issues. Moreover, in October 1989, the U.S. and Japan agreed to renew the NTT agreement.

In semiconductors, progress has been slow in increasing foreign access to the Japanese market. The U.S.-Japan Semiconductor Arrangement will expire on July 31, 1991.

In steel, in October 1989 the U.S. and Japan renegotiated a VRA on Japanese steel exports to the U.S. which lowered Japan's market share in the U.S. from 6.2 percent to 5 percent with an increase to 5.3 percent beginning in 1991.

In textiles, the new U.S.-Japan textile agreement concluded in December 1989 narrows the number of categories covered by the agreement and increased the level of protection on remaining categories.

In agriculture, in 1988 the U.S. and Japan entered into an agreement on agricultural market trade liberalization covering beef, citrus and other products as well as Japan's commitment to address rice access in the Uruguay Round.

Additional sectoral initiatives include: fisheries, where the U.S. has asked Japan to reduce the use of environmentally harmful driftnet fishing methods resulting in an agreement in June 1989 for the cooperative monitoring and enforcement of North pacific squid driftnet fleets; in legal services, where despite the passage of a 1989 law easing restrictions on foreign lawyers legal practice, several key restrictions remain which are the subject of continuing negotiations in 1990; and MOSS follow-up talks continue in telecommunications, medical/pharmaceutical products, auto parts, forest product and electronics.

Intellectual Property

QUESTION 23.

To what extent has progress been made in the area of intellectual property rights?

ANSWER 23.

Since the mid-term review last April, good progress has been made in the TRIPs negotiations. Some 15 country proposals have been submitted to the negotiating group on improving international standards in the area of intellectual property, and some 12 proposals on enforcement obligations. The negotiating process has thus been fully engaged and we are intensifying efforts in this area. While there are tough negotiations ahead of us between now and December, both among developed countries and between developed and developing countries, I am cautiously optimistic that we will achieve a good result in the TRIPs negotiations in the Uruguay Round.

Services and Investment

QUESTION 24.

What progress has been made in the area of services and investments?

ANSWER 24.

We are pursuing our market-opening objectives in services principally through the Uruguay Round. We have made considerable progress towards developing comprehensive rules and obligations on trade in services that will improve market opportunities for our services industries by the end of the Uruguay Round. The process of extending the coverage of a multilateral services agreement to open additional foreign markets for services will continue beyond the end of the Round.

We have made a good deal of progress on the issue of investment in the context of the Uruguay Round Negotiation on Trade Related Investment Measures (TRIMS). The United States recently tabled a submission at the GATT that calls for the prohibition or limitation of several TRIMS including the following: local content; export performance requirements; trade balancing; technology transfer; domestic sales requirements and local equity requirements. Almost all developed countries support a form of prohibition and/or limitation for TRIMS however, we need to rally support for these disciplines with developing countries in order to ensure the widest adherence to an agreement.

Uruguay Round

QUESTION 25.

I understand that the U.S. Coordinator for the Uruguay Round has Ambassadorial Rank and this individual is on reimbursable detail to the USTR. I'm curious as to why this position is held by an individual on detail rather than an agency professional. From what department is this individual on detail?

ANSWER 25.

USTR is fortunate to draw from the talents and expertise of the inter-agency trade community in fulfilling its mission. The United States Coordinator for the Uruguay Round is a foreign service officer on detail from the Department of State with 27 years of experience, most of it in the trade policy area, particularly related to multilateral issues and GATT. He has worked on both the Kennedy and Tokyo Rounds of Multilateral Trade Negotiations. From 1981 until he took up his current position in 1987 he was the Deputy Chief of Mission at the USTR Office in Geneva. He was instrumental in the negotiations leading up to the launch of the Uruguay Round and had been deeply involved in all aspects of the negotiations. He brings a thorough background in multilateral negotiations and wide negotiating experience to our effort.

U.S.-Japan Trade Relations

QUESTION 26.

During FY 1989, the President's Advisory Committee on Trade Policy and Negotiations issued a report examining the U.S.-Japan relationship and making recommendations aimed at improving it. Briefly summarize the findings of this task force and its recommendations.

These recommendations were not endorsed by the Administration. Would you tell us why the Administration declined to endorse the recommendations of its own task force?

ANSWER 26.

The ACTN report presents a detailed analysis of the factors the contribute to the current trade imbalance with Japan. Based on its analysis of macroeconomic, microeconomic and other factors the report proposed certain recommendations for the U.S. government.

A basic recommendation of the ACTN report is that bilateral frustrations over trade can only be addressed through a program that includes changes in trade practices and strategies. The report identified necessary actions in three areas: macroeconomic policy management, certain microeconomic policies and practices and certain additional areas of U.S. government involvement. Recommended macroeconomic policy measures include: (1) a gradual and substantial reduction of the U.S. budget deficit over roughly a five year time frame; (2) further domestic demand stimulation and structural reform in Japan as a means of offsetting the drag on the economy created by the decline in net exports which should occur as a result of a necessary reduction of Japan's trade surplus; and (3) regular bilateral consultations on the progress of the macroeconomic policies in reducing the trade imbalance. Recommended microeconomic policy measures include the following: (1) analyses and prioritization of sectors where the U.S. is competitive but currently unable to penetrate the Japanese market; (2) identification by U.S. negotiators of specific sectoral "successful outcomes" prior to entering into negotiations; (3) based on this identification process, the report recommends that U.S. negotiators should require that certain levels of imports be achieved which reflect the international competitiveness of U.S. suppliers; (4) delaying the application of Super 301 for one year, which if efforts to eliminate existing barriers failed, would then be initiated; (5) creating a system for monitoring all agreements and understandings; and (6) reacting decisively to Japan's failure to implement fully any agreement or understanding. The report also proposes certain additional recommendations aimed at strengthening the U.S. government agencies responsible for trade issues with Japan. These include, for example, increasing staffing in key agencies responsible for trade with Japan, using informal U.S.-Japan private sector talks to supplement government-to-government negotiations, and appointing certain individuals to key agencies who are knowledgeable about U.S. trade issues with Japan, among others.

The Administration benefited greatly from the analysis of the underlying causes of the trade imbalance identified in the ACTN report. Many of its specific recommendations have become part of the Administration's trade policy approach to Japan. Indeed, the Structural Impediments Initiative reflects the recognition that resolution of trade issues with Japan involves policy initiatives encompassing macroeconomic policies and microeconomic policies. The Administration is opposed, however, to managed trade. Our objective continues to be increasing U.S. exports to Japan, as to our other trading partners, by securing the removal of barriers to market access. The Structural Impediments Initiative and our other bilateral and multilateral trade initiatives vis-a-vis Japan are designed to bring about open markets in which economic outcomes are determined by competitive factors. Focusing attention on a specific rate of improvement in market access might commit Japanese to buy U.S. goods in ways that do not reflect market forces. Whether targets are set for U.S. exports to Japan or Japanese exports to the U.S., the outcome is likely to be less than optimal for producers and consumers in both countries.

Eastern Europe and USSR

QUESTION 27.

Your opening statement indicates that you have initiated trade talks with Eastern Europe and the Soviet Union. Would you outline what the Administration's plans are in these areas and your timetable?

Is the USTR the lead Agency for trade policy vis-a-vis Eastern Europe and the Soviet Union?

What Role will the State Department have?

ANSWER 27.

Our plan in Eastern Europe is to use bilateral trade agreements to accomplish a number of complementary goals. We believe well-crafted agreements can both assure market opportunities for American firms in these budding economies while encouraging them to move from centrally planned economies to ones based more on the principles of the free market.

USTR is the lead agency for trade policy for Eastern Europe and the Soviet Union. We are working closely with Commerce, State and Treasury through the TPRG process which USTR chairs.

The State Department is an important contributor to the trade negotiating process. In addition, the State Department is taking the lead in negotiating a bilateral investment agreement with the Soviet Union. In every case, however, it is important to stress that the Administration is approaching economic and political reform in the East as a team.

EC 1992

QUESTION 28.

Would you bring us up to date on the USTR's activities with respect to EC 1992?

What impact do you think German Reunification will have on these efforts?

What impact, if any, will German Reunification have on the U.S. position with regards to various aspects of EC 1992? Does this raise any particular concerns of issues for the USTR?

ANSWER 28.

The Interagency Task Force on EC 1992, chaired by USTR, continues to meet regularly. The first two phases of work --analyzing the 279 directives and alerting the American private sector to both the opportunities and potential problems in Europe -- is largely complete. We are in the midst of a number of different talks and negotiations with the European Community, partly as a result of EC 1992 and partly as a result of the GATT Uruguay Round. We are actively engaged on a broad range of issues, from telecommunications reform to procurement liberalization to intellectual property protection.

We must take the Germans at their word when they say that their ongoing attention to reunification will not deter them from following through on the single market. Certainly, our sense is that the program has a certain momentum that will not quit now. For example, the EC Council recently reached consensus on two major pieces of legislation -- mergers and procurement. Events in the East did not seem to affect either.

As for new problems being raised, I believe the pace and turns of events have been quick enough to surprise everyone. We have not identified or been alerted to any trade problems created by a unified Germany. I will say that if there are trade problems identified in the Single Market we will continue to address them with strength and purpose, whether there is one Germany or two.

Automation Activities

QUESTION 29.

I see from the budget justification that the Agency has a number of automation activities underway or planned. Is there a comprehensive or long-term automation plan for the Agency?

How much has been allocated for automation efforts in FY 1990?

How much is included in your FY 1991 budget request for this purpose and how does this compare to your request to OMB? If the amount in the President's Budget is less than USTR requested, provide for the record a list of what was disallowed and the associated amount.

ANSWER 29

USTR has a clear framework plan for upgrading the Computer System for the agency, and is developing a detailed long-term plan for submission to OMB this spring.

There are no funds allocated for automation upgrade in FY 1990.

There are no funds allocated in the FY 1991 Congressional budget request and the following was eliminated from the USTR FY 1991 request to OMB:

$550,000	additional funds for the Chapter 19 Canadian Free Trade Agreement.
$1,250,000	for Computer System upgrade.
$225,000	furniture request.
$754,000	for 8 additional FTE and additional reimbursable detailees.
$238,000	mandated pay increases.
$665,000	for Uruguay Round Travel, transcribers, translators, consultants and contract support.
$540,000	technical increases beyond inflation to Washington guard service, computer leases, Geneva FAAS support, rents and leases.
$92,000	for Washington and Geneva offices phone upgrades.

QUESTIONS SUBMITTED BY MR. CARR

FISCAL YEAR 1991 BUDGET REQUEST

Aviation Services

QUESTION 1.

As you know, I also serve on the Transportation Appropriations Subcommittee and have a longstanding interest in issues affected by the airline industry. I understand that one of the issues on the table in the current round of negotiations at the GATT is a U.S. proposal to expand the GATT regime to cover trade in services. While this proposal may work to the benefit of many U.S. service industries, I am concerned that including aviation services under the GATT would not be in the best interest of the U.S. aviation industry. It seems to me that since the U.S. has the largest domestic aviation market in the world, the current system of aviation bilateral agreements provides U.S. negotiators with maximum leverage to obtain reciprocal service rights for U.S. carriers in foreign markets. What position is the U.S. government taking on this issue in the GATT negotiations?

ANSWER 1.

See response to Question 2.

QUESTION 2.

I know that U.S. airlines often encounter difficulties in their international operations regarding "doing business" type matters such as ground handling services, landing fees, and ticketing. Today these disputes, if they can't be resolved under the procedures established in the bilateral agreements, are resolved under a process established in law by the Congress. The law is the International Air Transportation Fair Competitive Practices Act, and it requires DOT to get resolution of these problems within six months or impose sanctions. While no process is perfect, this statutory process has normally achieved resolution in six months, just as sanctions were about to be imposed. I am concerned that if these aviation "doing business" issues are put under GATT dispute resolution mechanism, they will be part of a process which often takes years, rather than months, and where there is no authority to impose sanctions in the end. The competitiveness of U.S. airlines, in my view, would suffer. What is USTR's position on whether air transport "doing business" issues should be included under a GATT services agreement?

ANSWER 2.

USTR has not yet determined its position on the inclusion of air transport "doing business" issues in a GATT services agreement, nor has it determined a position on the inclusion of air transportation. USTR has presented periodic briefings on the GATT services negotiations to representatives of the air transportation industry and is aware of the industry's opposition to inclusion of civil aviation in a GATT agreement. USTR also testified on this subject before the House Committee on Public Works and Transportation on November 16, 1989. With respect to dispute resolution, one of the areas of negotiation in the GATT concerns ways of making the dispute settlement mechanism more timely and effective. Within the Negotiating Group on Services (NGS), streamlined dispute settlement provisions are under consideration that would be consistent with a newly revised general dispute settlement mechanism of the GATT. This mechanism would provide for resolution of disputes with a period of months rather than years, similar to the length of time required in the International Air Transportation Fair Competitive Practices Act.

QUESTION 3:

I want to make it very clear that a great many of us in Congress who are involved in aviation issues do not want to see the air transport industry included in any way under a GATT services agreement. We don't have anything against the GATT services concept and wish you well in getting an agreement, but we do not want to see air transport included in any way: not "doing business" issues, not included but put under temporary reservation, not included in any way. We want it just plain excluded entirely. That is not the position you have put on the table in Geneva. I can guarantee that you will have a much easier time winning Congressional approval and implementation of any GATT services agreement if it totally excludes air transport.

ANSWER 3:

See response to Question 2.

Intellectual Property

QUESTION 4.

What is the status of negotiations for enhancing protections for Intellectual Property in GATT?

ANSWER 4.

Since the mid-term review last April, good progress has been made in the TRIPs negotiations. Some 15 country proposals have been submitted to the negotiating group on improving international standards in the area of intellectual property, and some 12 proposals on enforcement obligations. The negotiating process has thus been fully engaged and we are intensifying efforts in this area. While there are tough negotiations ahead of us between now and December, both among developed countries and between developed and developing countries, I am cautiously optimistic that we will achieve a good result in the TRIPs negotiations in the Uruguay Round.

QUESTION 5.

Do you consider these protections as bargaining chips that can be traded off for gains in agriculture or other areas of concern?

ANSWER 5.

There is wide-spread support among developed countries for stronger intellectual property protection. Thus, any result in TRIPs should be self-balancing among developed countries. However, we are working against the developing countries conception that any concessions that they make in the TRIPs negotiations will be offset by concessions in Uruguay Round negotiations.

Sound Recordings

QUESTION 6.

Can we obtain a minimum of a 50 year term of protection for sound recordings?

ANSWER 6.

We are pushing hard for a minimum of a 50 year term of protection for sound recordings. Based on indications that we have received to date in the negotiations, we are reasonably optimistic about prospects in this area.

QUESTION 7.

Are you familiar with the inadequacies in Japanese law regarding the protection of American sound recordings?

ANSWER 7.

We are very familiar with this problem and have had several bilateral discussions with the Japanese government regarding discriminatory aspects of their law and the inadequate term of protection. We are working closely with the Recording Industry Association of America (RIAA) to determine appropriate next steps.

Cut Flowers

QUESTION 8.

In a meeting dealing with GATT during the week of February 22, Colombia attacked the U.S. for the preliminary determination of the Commerce Department in determining the amount of antidumping duties on cut flowers.

Further, Colombian President Barco is reported to have asked President Bush to intervene with the Commerce Department to reduce the amount of the antidumping duties. The President is reported as saying he would try to help in negotiating that point.

Ambassador Hills, are we a government of laws and will your office, responsible for policy, and Commerce responsible for administration, fairly apply the antidumping laws in accordance with Congressional intent in the flowers case, notwithstanding the diplomatic pressures from Colombia?

ANSWER 8.

As you have noted, the Department of Commerce is the administering authority for antidumping cases. We have told the Colombians on numerous occasions that we intend to uphold the laws of the United States. In this regard, we have stressed that our antidumping law and its judicial review provisions require that the Commerce Department base its decisions on facts supported by the case record. We continue to maintain this position.

QUESTION 9.

The U.S. cut flower growers are seriously impacted by subsidized and dumped cut flowers.

What is being done by USTR to help our domestic industry find a fair market?

ANSWER 9.

As noted previously, remedies are available and have been used to counter both subsidized and dumped flowers entering the U.S. market.

With regard to the export markets available to U.S. producers, we have made a comprehensive proposal in the agriculture negotiations of the Uruguay Round to reform agricultural trade rules. This would lead to a fair market. We have proposed that trade-distorting export subsidies, import barriers, and internal support measures be phased out. Our proposal would apply to all commodities in all countries.

QUESTION 10.

Recently the President indicated that the U.S. might allow preferential treatment on certain U.S. Agricultural imports to include cut flowers.

What is the position of your office on the matter of providing further help to the Andean countries on the matter of cut flowers when they already enjoy over 70% of the carnation and pompon chrysanthemum markets?

ANSWER 10.

The war on drugs is one we cannot afford to lose. Our future depends on it. For this reason, President Bush announced his November 1 Andean Trade Initiative. This package of trade initiatives is designed to create opportunities for expanded trade and investment between the countries of the Andean region and the United States. Unless this happens, we will limit the capabilities of the countries of the region to seek economic alternatives to drug trafficking.

The President's Andean Trade Initiative is an example of our first step toward helping the Andean countries improve their trade performance. We are currently considering what more can be done to achieve our objectives. Our goal must be to help create an environment where entrepreneurship can flourish and comparative advantages can be successfully pursued. We are currently reviewing all possibilities in an effort to determine what might be possible in helping to achieve this goal.

QUESTIONS SUBMITTED BY MR. REGULA

FISCAL YEAR 1991 BUDGET REQUEST

Steel VRAs

QUESTION 1.

Under the recently negotiated extension of the steel VRAs U.S. negotiators were unable to get 60" stainless steel sheet included in the agreement with the EC and only on the "shift watch list" for certain other importers. Because of the artificial market conditions (i.e. bankruptcy of sole U.S. producer) when the initial VRA level was established our current domestic producers are now forced into production levels far below capacity to allow subsidized foreign steel sheet into the country. Last year, this highly lucrative product category, saw a 9% drop in prices by foreign producers with an increase from 5.8% of total imports to 7.8% in less than 30 days. What action can we expect from your office to protect against these types of abuses specifically in the 60" example and other similar product lines?

ANSWER 1.

The United States Government is aware of the unique circumstances concerning imports of 60" wide stainless steel sheet, and we appreciate your concern in this matter. The new steel VRA's do include all the major foreign sources of this product (the European Community, Japan and Finland). The U.S. Government has informed all of these parties of its concern in this area, and this product has been specified by name in the U.S. - EC VRA as a product which will be closely monitored against any sudden increases in imports. In fact, this issue is on the agenda for the upcoming U.S. - Japan and U.S. - EC steel consultations scheduled for April 1990. In our careful examination of trade in these products, we have seen some positive recent trends. Based on 1989 import statistics, it appears that imports of these products have declined substantially. Based on information submitted to the Department of Commerce in September 1989 by Mercury Stainless Corporation, 1988 estimated imports of 60" wide stainless sheet totaled 20,000 tons. Official U.S. Census statistics indicate that 1989 imports of these products totaled 13,272 tons, or a decrease of approximately 33 percent from 1988. Within 1989, imports declined 13 percent in the second half of the year, compared to the first 6 months. As regards price, the official statistics show that the prices of imports of these products actually increased 4 percent in the second half of 1989, at a time when other stainless steel prices were declining by approximately 10 percent. I can assure you that USTR and the Department of Commerce will continue to closely monitor imports of these products under the new VRA's.

Antidumping Rules

QUESTION 2.

Circumvention of outstanding antidumping orders is a major problem in the implementation of the Code and U.S. law. In the context of the GATT Uruguay Round negotiations, what progress has the U.S. made concerning its efforts to maintain and strengthen international dumping rules? Can you respond in general, and more specifically in writing, to your efforts regarding the following ECAT proposals: adjustments for indirect expenses, averaging prices in the determination of U.S. price and foreign market value, de minimis duty level, determination of injury, public interest determination, and sunset provisions?

ANSWER 2.

In 1988, U.S. antidumping law was amended to include provisions to combat circumvention of outstanding antidumping duty orders. The United States considers that these provisions are fully consistent with the existing Antidumping Code.

Nonetheless, a key objective of the United States in the current round of antidumping negotiations is to update the Code to make clear that it applies to circumvention. The U.S. position is reflected in the proposal the United States tabled in November 1989, which includes as one of two key elements explicit provisions that would address not only circumvention problems but also problems U.S.industries have encountered with the related problems of recurrent injurious dumping and repeat corporate injurious dumping.

U.S. negotiators are strongly advocating both the anticircumvention and related provisions of the proposal and those that support improved transparency and strengthening of minimum procedural standards in the Code to ensure that antidumping proceedings are fair to all participants. In short, the U.S. view is that antidumping remedies must be tough, effective, fair and transparent.

With respect to the specific proposals mentioned in the question, we note that we have solicited and received comments on proposals before the Negotiating Group in Geneva from more than two dozen interested domestic groups. Indeed, USTR and Commerce negotiators have solicited the views of all interested private sector groups in recognition of the importance of the antidumping issue to many in the U.S. business and labor community who are affected by injurious dumping and the remedies that address that practice. These comments and submissions, which reflect the diversity of views in our private sector on this issue, have touched on the full range of proposals before the Negotiating Group. While we have not commented on each group's specific proposals or agenda, these submissions have been and will continue to be an essential component in the development of the U.S. negotiating position.

Wood Products

QUESTION 3.

What resources and attention are you willing to commit to the bilateral wood product talks with Japan?

ANSWER 3.

The Administration has an intensive effort under way now to negotiate substantially improved access to the Japanese processed wood products market. In addition to the continuing efforts of the Assistant U.S. Trade Representative for Industry and his USTR staff, Deputy U.S. Trade Representative Linn Williams and I have been actively involved in discussing our market access concerns with the Japanese government. Moreover, we have relied on the talents of a committed interagency group, including representatives from USDA, Commerce, State and Treasury. We have met monthly with the Japanese here and in Tokyo and have held intensive technical and policy meetings that both reflect the concerns of U.S. industry and government and involve direct participation by experts from the private sector. At our most recent (March 14-15) meeting, the United States emphasized to the Government of Japan the need for a comprehensive package of measures to resolve our wood products problems covering, *inter alia*, tariff reductions, tariff classification, product standards and building codes and related issues. While we made some progress at this meeting, we are still far apart. We anticipate a more forthcoming Japanese response at our next meeting (tentatively scheduled for April 9-10 in Tokyo). We will continue to devote whatever resources are necessary both within USTR and elsewhere in the Administration to achieve success in this area.

QUESTIONS SUBMITTED BY MR. CONTE

FISCAL YEAR 1991 BUDGET REQUEST

Space Launch Industry

QUESTION 1.

Recently, the U.S. space launch industry has expressed concern to Members of Congress and the Administration about the effects of allowing Soviet access to the U.S. commercial launch market. Apparently, they are concerned that the Soviets are anxious to sell their launch services to U.S. satellite companies at bargain basement prices, which would have the effect of driving them out of the business. Are you aware of this concern?

ANSWER 1.

Yes, we are aware of this concern and have discussed it directly with representatives of the U.S. space launch industry.

QUESTION 2.

In an unusual effort, the chairmen and CEO's of Martin Marietta, General Dynamics, and McDonnell Douglas wrote and others in the Administration asking you to make no trade commitments to the Soviets on the issue of launch services pending completion of a study and report on commercial launch services by the National Space Council. Is the issue of launch services on your agenda for the ongoing round of trade talks with the Soviets?

> If not, can you assure us that you will keep it off the agenda until we establish a national policy in this area?
>
> If it is on the agenda, how can we convince you to take it off pending the National Space Council study?

ANSWER 2.

The issue of space launch services is not on the agenda of the trade negotiations between the U.S. and the Soviet Union. Neither, has this matter been raised by either side in connection with these negotiations. We further do not believe that this type of industry specific issue is appropriate to these negotiations. The Administration has stated, in response to the industry request to defer consideration of Soviet launch services issues until after the National Space Council study, that part of the very intent of the Space Council policy implementation review is to develop a comprehensive policy framework to guide future consideration of issues, such as those raised by the U.S. industry in their letter.

ATTACHMENT A

CALCULATION OF FY 1991 COSTS
FOR FTA CHAPTER 19 PANELS

U.S. PROJECTED TOTAL EXPENSES	$1,500,000
CANADIAN PROJECTED TOTAL EXPENSES	$1,471,000
TOTAL FOR BOTH COUNTRIES	$2,971,000
COSTS DIVIDED EQUALLY BETWEEN SECTIONS	$1,485,500

UNITED STATES CASES

1)	20 appealable Import Administration decisions (estimate)	
x	20 days per case average	
x	$510 ($340 per day panelist compensation + $170 per day assistant compensation)	
x	5 panelists and assistants	
x	75 percent appeal rate (16 cases) =	$ 765,000
+	$6,000 per case other expenses x 16 cases =	$ 90,000
	TOTAL ESTIMATED IMPORT ADMINISTRATION CASE COSTS =	$ 855,000

2)	6 appealable ITC Injury determinations (estimate)	
x	30 days per case average	
x	$510 ($340 per day panelist compensation + $170 per day assistant compensation)	
x	5 panelists and assistants	
x	75 percent appeal rate (4 cases) =	$ 344,250
+	$6,000 per case other expenses x 4 cases =	$ 24,000
	TOTAL ESTIMATED ITC CASE COSTS =	$ 368,250

3)	1 Extraordinary Challenge Committees (estimate)	
x	20 days	
x	$510 ($340 per day panelist compensation + $170 per day assistant compensation)	
x	3 panelists and assistants x 1 case =	$ 30,600
+	$6,000 other expenses x 1 case =	$ 6,000
	TOTAL ESTIMATED ECC CASE COSTS	$ 36,600

4)	1 Review of Statutory Amendments (estimate)	
x	20 days per case average	
x	$510 ($340 per day panelist compensation + $170 per day assistant compensation)	
x	5 panelists and assistants x 1 case =	$ 51,000
+	$6,000 per case other expenses x 1 case =	$ 6,000
	TOTAL ESTIMATED STATUTORY REVIEW COSTS =	$ 57,000

TOTAL ESTIMATED IMPORT ADMINISTRATION APPEAL COSTS	$ 855,000
TOTAL ESTIMATED ITC CASE COSTS	$ 368,250
TOTAL ESTIMATED ECC CASE COSTS	$ 36,600
TOTAL ESTIMATED STATUTORY REVIEW COSTS	$ 57,000
TOTAL ESTIMATED COSTS OF CASES FILED IN FY90	$1,316,850
TOTAL GENERAL CHAPTER 19 ADMINISTRATIVE EXPENSES: (Printing, etc)	183,150 $1,500,000

CANADIAN CASES

1) 20 appealable National Revenue decisions (estimate)	
x 20 days per case average	
x $510 ($340 per day panelist compensation + $170 per day assistant compensation)	
x 5 panelists and assistants	
x 75 percent appeal rate x 15 cases =	$ 765,000
+ $6,000 per case other expenses x 15 cases =	$ 90,000
TOTAL ESTIMATED NATIONAL REVENUE CASE COSTS =	$ 855,000

2) 8 appealable CITT injury determinations (estimate)	
x 20 days per case average	
x $510 ($340 per day panelist compensation + $170 per day assistant compensation)	
x 5 panelists and assistants	
x 75 percent appeal rate = 6 cases =	$ 306,000
+ $6,000 per case other expenses x 6 cases =	$ 36,000
TOTAL ESTIMATED ITC CASE COSTS =	$ 342,000

3) 1 Extraordinary Challenge Committees (estimate)	
x 20 days	
x $510 ($340 per day panelist compensation + $170 per day assistant compensation)	
x 3 panelists and assistants x 1 case =	$ 30,600
+ $6,000 other expenses x 1 case =	$ 6,000
TOTAL ESTIMATED ECC CASE COSTS	$ 36,600

4) 1 Review of Statutory Amendments (estimate)	
x 20 days per case average	
x $510 ($340 per day panelist compensation + $170 per day assistant compensation)	
x 5 panelists and assistants x 1 case =	$ 51,000
+ $5,000 per case other expenses x 1 case =	$ 6,000
TOTAL ESTIMATED STATUTORY REVIEW COSTS =	$ 57,000

TOTAL ESTIMATED NATIONAL REVENUE APPEAL COSTS	$ 855,000
TOTAL ESTIMATED CITT CASE COSTS	$ 342,000
TOTAL ESTIMATED ECC CASE COSTS	$ 36,600
TOTAL ESTIMATED STATUTORY REVIEW COSTS	$ 57,000
TOTAL ESTIMATED COSTS OF CANADIAN CASES IN FY91	$1,290,600
TOTAL GENERAL CHAPTER 19 ADMINISTRATIVE EXPENSES:	180,400
	$1,471,000

ATTACHMENT B

For ITA's or USTR's section of the bill:

> "Notwithstanding 31 USC 3302, any payments received from the government of Canada for the costs of binational panels and extraordinary challenge committees convened under chapters 18 and 19 of the U.S.-Canada Free Trade Agreement may hereafter be retained and used by the International Trade Administration [Office of the United States Trade Representative] for payment of costs of convening future such panels and committees under the Agreement."

For USTR's section of the bill:

> "...and of which $1,500,000 shall be used for paying costs of binational panels and extraordinary challenge committees convened under chapter 19 of the U.S.-Canada Free Trade Agreement and shall remain available until expended."

ATTACHMENT C

EASTERN EUROPE

STATUS UNDER GATT

Country	Member/ Date of Accession	Condition of Membership	U.S. Conditions	Changes in Current GATT Arrangements
Bulgaria	observer status since 1967			applied for membership in 1986; working party established
Czechoslovakia	founding member January 1948	standard protocol	mutual suspension of GATT relations in 1951; subject to CP Declaration	GOC requested mutual withdrawal of suspension
GDR	not member			no plans known
Hungary	September 1973	NME conditions in protocol	Article 35 (non-application under GATT, but applied bilaterally conditionally)	requested U.S. to withdraw invocation of Article 35
Poland	October 1967	NME conditions in protocol		requested renegotiation of protocol
Romania	November 1971	NME conditions in protocol	Article 35 (non-application under GATT, but applied bilaterally conditionally)	no request for change of status
USSR	not member			requested observer status
Yugoslavia	August 1966	standard protocol		no request for change status

Prepared by USTR
March 22, 1990

EASTERN EUROPE

MFN STATUS

Country	*Benefits from MFN Treatment	Subject to Title IV/ Jackson-Vanik(J-V)	Status of J-V Waiver on Emigration	Status of Title IV Trade Agreement	Status of Investment/ Other Agreements
Bulgaria	no	yes	not yet granted		
Czech-oslovakia	no	yes	President announced 1 year waiver Feb. 20	SIGNED APRIL 12 — ADMIN TO WORK WITH CONGRESS ON APPROVAL.	first round of BIT negotiations, March 6; 2nd ROUND APRIL 9-12
GDR	no	yes	not yet granted		
Hungary	yes (since 1978)	yes	annual waivers from 1978 to 1988; certified Nov. 1988*	Trade Agreement signed in 1978; in effect	
Poland	yes since 1962 (suspended from 1982 to 1987 based on violation of GATT protocol)	no	N/A	N/A	Business and Economic Treaty signed March 21, 1990
Romania	MFN granted in 1975; terminated July 1988 when GOR renounced MFN; not reinstated	yes	not yet granted	Trade Agreement since 1975; still in effect except for MFN; Romania has requested reactivation; awaiting J-V decision	
USSR	no	yes	not yet granted	under negotiation	under negotiation
Yugoslavia	yes since 1948	no	N/A	N/A	BIT or Business and Economic Agreement will be reviewed by TPSC

* Under Jackson-Vanik emigration criteria, the President may: (a) waive, upon annual review, the Jackson-Vanik requirements for a country if he determines that such waiver will promote free emigration and he has received assurances that its emigration practices will lead substantially to free emigration; or (b) certify that a country's emigration practices meet the standards under the Jackson-Vanik amendment and report to the Congress every six months that the country continues to be in compliance. In either case, MFN remains conditional.

** Business and Economic Agreements include model BIT protections, as well as business facilitation and IPR provisions. They are appropriate for countries with which we have old (narrow) trade agreements, e.g. Romania and Hungary, and countries with which we have no, and do not plan to negotiate any, trade agreements, e.g. Poland and Yugoslavia.

Prepared by USTR March 22, 1990

EASTERN EUROPE

STATUS OF GSP TREATMENT

Country	Date Designated GSP Beneficiary	Legislative Eligibility	*Administratives Eligibility
Bulgaria	N/A	** no legislative prohibition	TPSC will monitor and review eligibility
Czechoslovakia	N/A	explicitly prohibited under U.S. GSP law	Administration proposed removal from prohibition list; TPSC will monitor and review eligibility
GDR	N/A	explicitly prohibited under U.S. GSP law	Administration proposed removal from prohibition list; TPSC will monitor and review eligibility
Hungary	November 3, 1989	** no legislative prohibition	yes
Poland	January 9, 1990	removed from prohibited list, Nov. 1989	yes
Romania	1976 - original GSP beneficiary; terminated March 1987 because of treatment of workers' rights; not reinstated	** no legislative prohibition	not yet reviewed by TPSC; must await MFN reinstatement
USSR	N/A	explicitly prohibited	no request to change
Yugoslavia	1976 - original beneficiary	** no legislative prohibition	yes

* Criteria for President's granting of GSP (once legislative ban removed). Among these requirements are:

- -- IMF membership if communist country
- -- GATT membership
- -- Must meet International Standards for Workers' Rights
- -- Must have MFN treatment
- -- Must meet GNP per capita standards (Per capita GNP current ceiling of $10,400 for 1989)
- -- Should provide adequate and effective intellectual property rights

** The Congress never placed Bulgaria, Romania and Yugoslavia on the prohibition list. Hungary was removed from prohibited list in 1984, and did not receive GSP until 1989.

Prepared by USTR March 22, 1990

ATTACHMENT D

FY 89 REPRESENTATION FUNDS

MT9009 TOTAL	$69,000.00
TOTAL EXPENSES	$68,207.52
===============	=============
TOTAL BALANCE	$792.48

			TOTAL	EXPENSES
USTR	DIV	101	$14,500	14,955.09
COUNSELOR TO USTR	DIV	102	$50	0.00
GENERAL COUNSEL	DIV	103	$1,300	826.45
CHIEF TEXTILE NEGOTIATOR	DIV	104	$2,800	2,844.38
DUSTR	DIV	105	$6,000	5,332.65
TRADE POLICY COORDINATION	DIV	107	$100	29.40
CANADA AND MEXICO	DIV	108	$1,900	1,636.56
EUROPE AND THE MEDITERRANEAN	DIV	109	$3,500	3,316.91
LATIN AMERICA, CARIBBEAN, AND AFRICA	DIV	110	$1,100	1,005.57
JAPAN AND CHINA	DIV	111	$800	692.01
ASIA AND THE PACIFIC	DIV	112	$1,000	946.31
MULTILATERAL NEGOTIATION	DIV	113	$3,800	3,226.27
GATT AFFAIRS	DIV	114	$1,300	1,399.44
INDUSTRY AND SERVICES	DIV	117	$1,800	1,773.27
AGRICULTURAL AFFAIRS & COMMODITY POLICY	DIV	118	$1,000	298.43
CONGRESSIONAL AFFAIRS	DIV	119	$100	102.03
PUBLIC, PRIVATE AND INTERGOVERNMENTAL AFFAIRS	DIV	120	$500	458.14
COMPUTER OPERATIONS	DIV	122	0	0.00
ADMINISTRATION	DIV	123	$12,850	14,911.18
SERVICES	DIV	124	$2,600	2,453.43
MISCELLANEOUS	DIV	100	0	0.00
GENEVA	DIV	300	$12,000	12,000.00
	TOTAL		$69,000	$68,208

ATTACHMENT E

EARLY- QUESTION 9 ATTACHMENT E

	CONGRESSIONAL SUBMISSION FY 1991	OMB SUBMISSION FY 1991
PERSONNEL COMPENSATION		
11.1 FULL-TIME PERMANENT	7631	8238
11.3 OTHER THAN FTP	535	605
11.5 OTHER PERS COMP	351	376
11.8 SPEC PERS SER PYMTS	368	673
SUB TOTAL PERS COMP	8885	9892
OTHER OBJECTS		
12.1 PERS BENEFITS	1720	1808
21.0 TRAVEL	1461	1561
22.0 TRANS THINGS	75	75
23.1 GSA RENT	1228	1228
23.2 RENT OTHER	616	638
23.2 COM UTIL & MISC	1370	1702
24.0 PRINT & REPRODUCTION	267	317
25.1 OTHER SERVICES	2906	4407
25.2 REPRESENTATION	98	122
26.0 SUPP & MATERIALS	160	165
31.0 EQUIPMENT	150	1335
SUB TOTAL - OTHER OBJECTS	10051	13358
TOTAL - USTR	18936	23250
TOTAL FTE	156	160
TOTAL CONTRACTORS	25	25

TUESDAY, FEBRUARY 27, 1990.

FEDERAL TRADE COMMISSION

WITNESSES

JANET D. STEIGER, CHAIRMAN

BARBARA CLARK, DIRECTOR, LITIGATION AND ADMINISTRATION, BUREAU OF COMPETITION

BARRY CUTLER, DIRECTOR, BUREAU OF CONSUMER PROTECTION

JOHN L. PETERMAN, DIRECTOR, BUREAU OF ECONOMICS

JAY C. SHAFFER, ACTING GENERAL COUNSEL

ROBERT S. WALTON III, EXECUTIVE DIRECTOR

RICHARD D. ARNOLD, DIRECTOR, DIVISION OF BUDGET AND FINANCE

Mr. SMITH. Next, we have the Federal Trade Commission. Their request fiscal year 1991 is $76,900,000, including $20 million for fee collections, and that represents an increase of $2,410,000 above the fiscal year 1990 level.

At this point in the record we will insert the budget justifications submitted in support of this request.

[The justifications follow:]

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

OFFICE OF
THE CHAIRMAN

January 29, 1990

Honorable Neal Smith
Chairman
Subcommittee on Commerce, Justice, and State,
the Judiciary, and Related Agencies
House of Representatives
Washington, D.C. 20515

Honorable Ernest F. Hollings
Chairman
Subcommittee on Commerce, Justice, and State,
the Judiciary, and Related Agencies
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This transmits the fiscal 1991 budget request and justification for the Federal Trade Commission.

The agency's fiscal 1991 budget request amounts to a program level of $76,990,000 and 970 work years. It provides for a net increase of approximately $3.4 million over our fiscal 1990 program level, with a workyear increase of 20. As the justification materials describe, this budget will permit the Commission to pursue actively its Competition and Consumer Protection missions.

By direction of the Commission,

Janet D. Steiger
Chairman

Federal Trade Commission
Fiscal 1991 Budget Request

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OVERVIEW STATEMENT

The role of the Federal Trade Commission, as defined by Congress, is to enforce a variety of Federal antitrust and consumer protection laws. Under these laws, the Commission seeks to ensure that the nation's markets are competitive, function vigorously and efficiently, and are free from undue governmental as well as private restrictions. The Commission also seeks to improve the operation of the marketplace by eliminating deceptive and unfair practices, with emphasis on those practices that may unreasonably restrict or inhibit the free exercise of informed choice by consumers. The Commission relies upon economic analyses to support this law enforcement effort and to contribute generally to the economic policy deliberations of the Congress, the Executive Branch, and the public.

AGENCY REQUEST

The Commission is requesting a total program level[1] of $76,990,000 to support 970 workyears in fiscal year 1991. This funding level will provide for the increase in workyears needed to keep pace with the growth in merger related activity and in consumer injuries resulting from such activity as telemarketing fraud and unfair or deceptive advertising practices.

The Commission sustained a nearly fifty percent reduction in workyears during the past decade, and has determined that this reduced level is insufficient to completely perform our mandated activities. With the revised funding provided by the Congress in the fiscal 1990 appropriation, the Commission is able for the first time in 10 years to stop its resource decline and provide for a small increase. In fiscal 1991, we are requesting what we consider to be the minimum necessary increase in resources to continue to restore the Commission to a reasonable enforcement level. The net dollar increase between fiscal 1990 and 1991 totals $3,374,000, and consists of these items: 20 additional workyears ($891,000), annualized pay and benefit increases ($2,704,000), decreases in telecommunications and ADP costs (-$631,000), and an increase in GSA rent charges ($410,000).

FEE INCOME AND FUNDING

Funding for the Commission consists of approximately 74 percent appropriated funds and 26 percent fee income. Congress enacted the Hart-Scott-Rodino pre-merger filing fee income provision in fiscal 1990 with the intent of providing flexibility to meet workload increases. While the Congress reduced appropriated funding by $15,000,000, it authorized the Commission to collect up to $20,000,000 in fees. In the fiscal 1991 request the program level of $76,990,000 assumes full collection of the $20,000,000. Thus, the Commission is dependent on the full $20,000,000 fee income.

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[1] Program level funding consists of appropriated funds of $56,990,000 and fee income of $20,000,000. Congress in fiscal 1990 authorized the Commission to collect up to $20,000,000 for pre-merger notification filings made under the Hart-Scott-Rodino Act. The budget materials that follow discuss resources in terms of total program level.

POLICY INITIATIVE

In conjunction with a stable funding level resulting in a small resource increase, the Commission has embarked on a program of increased communications with consumers, businesses, and regulators.

We have scheduled a number of meetings with consumer groups, business leaders and members of the academic community to discuss consumer and antitrust concerns. We are working very hard to develop a productive working relationship with State Attorneys General and local regulatory officials. The results of these efforts will help to guide the development of Commission enforcement policies in the future.

* * * *

Program success will continue to be measured by the degree to which we obtain business compliance with our laws, rules and regulations. In cases where compliance is not obtained, this budget contains the resources required to pursue aggressively those who refuse to comply with the law.

The Commission will use a minor portion of its resources to participate in the debate on amendments to the antitrust and consumer protection laws; present Commission views in private litigation with significant potential impact on the antitrust and consumer protection laws; and advocate the benefits of competition when other Federal or State bodies request our analysis.

The remainder of this overview statement summarizes specific program activities that are included under the Commission's two principal missions and details the reasons why 970 workyears are needed in fiscal 1991.

I. MAINTAINING COMPETITION

The major goal of this mission is to detect and eliminate antitrust law violations, including collusion, anticompetitive mergers, predatory single firm conduct, injurious vertical arrangements, and other anticompetitive practices in the private sector. Because federal, state, and local government regulations may also restrict competition, a second major goal is to provide procompetitive analysis and comment in government proceedings that affect competition.

The Maintaining Competition Mission budget includes 465 workyears and $37,256,000 for fiscal 1991. Workyears increase by 8 over fiscal 1990 levels, dollars by $1,555,000. The workyear increase includes 7 allocated to four of the seven mission programs and 1 for support efforts. The dollar increase funds the 8 additional workyears plus inflation increases. With this proposed level of funding, the Commission would have the means to carry forward into fiscal 1991 any existing fiscal 1990 matters and to initiate a number of new investigative, law enforcement, and advisory activities.

Resources in the Premerger Notification program are used to investigate possible violations of the reporting requirements of the Hart-Scott-Rodino(H-S-R) Act and to administer the operation of the statutory premerger notification program. Staff assigned to this program must also continue to review and propose revisions to the rules that govern our premerger notification program to streamline and improve the process whenever possible. Workyears allocated to the premerger program will increase by 1 between fiscal 1990 and 1991. This increase will allow us to address the critical area of rulemaking and codification of current procedures, while we continue the mandatory process of reviewing the filings and maintaining our vigorous program of investigating possible violations of the H-S-R Act. During the 11 years of operation, numerous improvements have been made in the program, but because of statutory timeframes that must be met to review the merger filings we receive, and the amount of staff time spent in providing technical assistance and advice to the public, rulemaking efforts have suffered. The additional resources will provide to us the ability to refine the procedures for the Premerger program, and also help us continue to meet the demands of processing the large number of filings.

Resources in the Mergers and Joint Ventures program will be dedicated to investigating substantial mergers, acquisitions and joint ventures that appear likely to injure consumers. The focus will continue to be on mergers in the energy, health care, transportation and food industries. Resources in this program will also be allocated to ensure compliance with Commission orders requiring divestitures and any prior approvals of future acquisitions. Workyears in this program will increase by 3 between fiscal 1990 and 1991. This increase will, among other things, assure sufficient resources to pursue all necessary full-phase investigations and allow us to provide more follow-up investigations to monitor the outcome of Commission decisions, while also reducing the potential "burnout" problem that exists when a limited staff continually faces a substantial workload under tight time constraints.

After the merger programs, the Horizontal Restraints program is the Commission's largest competition program. Program efforts consist of investigations and litigation against suspected collusion among competitors. A principal focus of this program is the licensed occupations, in which the Commission investigates and challenges boycotts, and works to reduce anticompetitive restrictions on the practice of innovative health care providers such as Health Maintenance Organizations, Preferred Provider Organizations, or non-physician providers. The program will continue, in response to requests, to provide advice to courts, Congress and federal and state agencies. The structure and conduct of bid depositories, activities of trade associations and standards-setting organizations will also be subject to review for possible violations of law. The workload in this program is expected to grow, particularly in the increasingly complex health care industry. The additional 2 workyears will permit us to increase the number of full-phase investigations and the staffing of investigations where needed, to provide greater assurance that enforcement decisions will be based on adequate factual records. In addition, it will allow us to provide better service to the public through increasing our advisory opinions and competition advocacy activity.

The Distributional Arrangements program will investigate and prosecute suspected anticompetitive resale price maintenance, price discrimination, and non-price vertical arrangements. The workyears for this program will increase by 1 between fiscal years.

The Single Firm Violations program consists of the investigation and prosecution of suspected instances of price or non-price predation, of monopolization, or attempted monopolization, and of other abuses by firms with market power protected by entry barriers. The workyears for the program will remain constant between fiscal 1990 and 1991.

The Antitrust Policy Analysis Program provides economic support to the law enforcement activities of the Mission. Economists will undertake or complete studies to increase knowledge and understanding of market situations in which antitrust action will result in a more competitively functioning economy. Areas of interest include the effects of the cartel-like characteristics of regulation on innovation and productivity, and the effects of entry and mergers on competition among hospitals. The workyears for this program will remain unchanged for fiscal 1990 and 1991.

Finally, the Other Direct Mission Resources program contains resources for management of the mission and to ensure that all Commission actions are supported by sound economic and legal analyses. There are no workyear increases proposed for this program.

II. Consumer Protection

The major goal of the Consumer Protection Mission is to improve market performance so that consumers can make informed purchase choices. The mission seeks to halt or prevent deceptive and unfair practices that hinder optimum market performance. As in the recent past, market-oriented remedies will be emphasized and information disclosure will remain central to many programs.

In fiscal 1991, the Consumer Protection Mission will utilize 505 workyears and $39,734,000. Workyears increase by 12 over fiscal 1990, and dollars by $1,819,000. The workyear increase includes 10 workyears allocated to three of the seven mission programs and 2 workyears for support efforts. The dollar increase funds the additional workyears and increases due to inflation. The additional resources will permit increased law enforcement activities in areas of growing concern such as telemarketing fraud and unfair or deceptive advertising.

Under the Enforcement program, the Commission will continue to monitor compliance with its rules and orders, taking action as appropriate. Enforcement actions will seek civil penalties and injunctions as sanctions against order and rule violators. Redress will be sought for consumers who suffer economic loss from practices that violate rules and orders. This largest of the mission programs will remain stable between fiscal years.

The Marketing Practices program focuses on identifying fraudulent practices and halting those acts and practices where injury to the public is ongoing. This effort includes seeking restitution or other relief for consumers harmed by deceptive sales or product claims. Under this program the Commission will also work to ensure that warranty information is understood and made available to consumers prior to sale, and that promises made under warranties are honored. Consumer and business education efforts will continue to play a prominent role in helping consumers avoid potential pitfalls. In fiscal 1991, workyears will increase by 3. This increase will permit increased activity in the areas of hard-core fraud, other point-of-sale deceptions, and franchise rule violations

The Advertising Practices program seeks to ensure that advertising is truthful and not misleading, thus protecting the informational benefits of advertising. Ad monitoring activities in many areas of longstanding Commission involvement will continue. Two federal statutes regulating the advertising and labeling of cigarettes and smokeless tobacco are administered under this program. The program is scheduled to gain 4 workyears in fiscal 1991. This increase will be directed to cases involving health claims for food and drug products, cosmetic advertising and safety claims, and the marketing practices of advertisers.

The Credit Practices program enforces federal credit laws and pursues deceptive or unfair credit-related practices that seriously injure consumers. In fiscal 1991, the program will continue its focus on misleading or fraudulent claims by companies that sell credit repair or credit card procurement services to consumers with bad credit histories. Travel scam operators and others who engage in fraud involving credit cards will also be subject to enforcement action. Workyear levels will remain constant between fiscal 1990 and 1991.

The Service Industry Practices program seeks to facilitate informed consumer choice, help ensure fair competitive opportunities for smaller companies in the standards setting process, and reduce consumer losses based on false or misleading information. Enforcement activities will continue challenging telemarketing fraud, and an automated information system will be expanded to assist law enforcement in this area. This program will increase 3 workyears from fiscal 1990 to 1991. This increase will allow initiation of additional enforcement activity with respect to investment fraud, health fraud and standards setting.

During fiscal 1990 and 1991 the Economic and Consumer Policy Analysis Program will provide support to mission law enforcement initiatives. Staff economists will continue to perform analyses of the effects of various case and rulemaking activities in the Consumer Protection Mission. Assistance to the Commission in adjudicatory matters and analyses of the effects on consumers of government regulation will continue. Studies may be initiated concerning consumer information problems in health related areas and the role of standards, branding, advertising, and disclosure requirements in addressing those problems. The resources allocated to this program will remain unchanged between fiscal years.

Finally, resources will be allocated for management of the mission and to provide legal analyses of proposed investigations and cases. Program Management activities help ensure that all Commission actions will be supported by sound regulatory analyses. Emphasis will continue to be placed on supervision and the improvement of management at all levels of the Consumer Protection Mission. There are no workyear increases proposed for this program.

III. Management Initiative

The agency's major management initiative for both fiscal 1990 and 1991 will be to focus on ways to improve staff productivity through the increased use of modern information systems technology. Over the past five years, the FTC has developed and put in place a comprehensive infrastructure of systems to meet basic office automation, voice, and data communications, and central computing needs of the Commission and its staff. The potential productivity contribution of these systems remains to be fully realized, however, and for this reason, the first order of business now is to assure that these systems are used effectively. To tap this potential, sufficient training, equipment and contract funds must be allocated to the agency's information management program.

For fiscal 1990 and 1991 the Commission has acted to partially restore recent cuts in capital equipment and staff workyears. This budget provides an increase of 2 workyears.

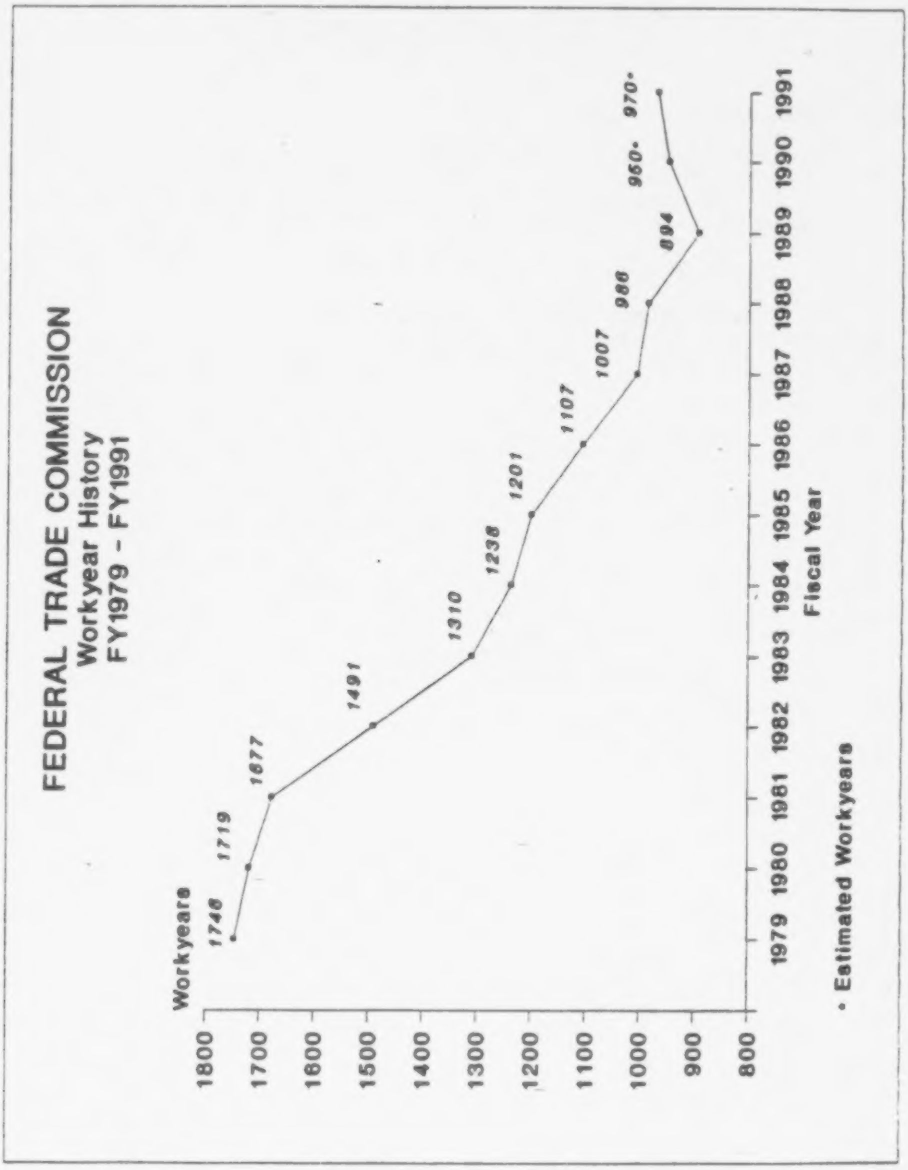
Increased resources are needed for three reasons. First, as the base of users, equipment, and systems grows, so too does the need for resources to maintain and support them. Second, moving from the phase of "building system infrastructure" to fully "incorporating and effectively using" these systems requires increased investment in user training and support. Third, recent Commission experience demonstrates that there is a high return on limited investments in this area.

* * * *

The Commission believes that its request of $76,990,000 and 20 workyears is needed to accomplish its objectives for fiscal 1991.

SUMMARY OF FISCAL 1991 BUDGET REQUEST
(dollars in thousands)

	Fiscal 1990		Fiscal 1991 Agency Request		Change	
	Wkyrs.	Dollars	Wkyrs.	Dollars	Wkyrs.	Dollars
I. **MISSION:**						
Maintaining Competition.............	457	$35,701	465	$37,256	8	$1,555
Consumer Protection..............	493	37,915	505	39,734	12	1,819
Total..................	950	73,616	970	76,990	20	3,374
II. **ORGANIZATION:**						
Headquarters............	774	$60,650	790	$63,428	16	$2,778
Regions.................	176	12,966	180	13,562	4	596
Total..................	950	73,616	970	76,990	20	3,374
III. **FUNDING SOURCE:**						
Budget Authority........	700	$53,876	720	$56,990	20	$3,114
Fee Income..............	250	19,740	250	20,000	...	260
Total..................	950	73,616	970	76,990	20	3,374


FEDERAL TRADE COMMISSION
Workyear History
FY1979 - FY1991
Workyears
1800
1700
1600
1500
1400
1300
1200
1100
1000
900
800
1748
1719
1677
1491
1310
1238
1201
1107
1007
986
894
950*
970*
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
Fiscal Year
* Estimated Workyears

MAINTAINING COMPETITION MISSION
OVERVIEW STATEMENT

LONG-RANGE GOALS

In enforcing the Federal Trade Commission and Clayton Acts though its Maintaining Competition Mission, the Commission examines a wide variety of industries and commercial practices and, when appropriate, takes action to ensure that competition in the Nation's markets for goods and services is maintained and, if possible, enhanced.

The mission's specific long-range goals include the detection and elimination of antitrust law violations, including collusion, anticompetitive mergers, predatory single-firm conduct, and injurious vertical agreements. The Commission considers it vital that antitrust analysis also be brought to bear upon legislative and regulatory restrictions on competition imposed by government bodies at the federal, state, and local levels. Therefore, an additional long-range goal is to provide procompetitive analysis and comments in government proceedings that affect competition in areas important to consumers.

The Commission seeks to correct anticompetitive restraints in the manner that will best assure the working of free market forces. Thus, it seeks to fashion antitrust remedies that rely on the effectiveness of industry members' competitive incentives. These efforts ensure that the Commission, while maintaining a significant enforcement presence across many broad sectors of the economy, prescribes solutions for competitive problems that will work because they harness the forces and responses of freely competitive markets.

MAJOR OBJECTIVES

To achieve the Maintaining Competition Mission's long-range goals of reducing public and private restraints on competition, and ensuring the operation of unhindered market forces throughout the economy, the Commission has targeted a number of discrete objectives based on the specific anticompetitive practices or particular statutory responsibilities of the Commission. These principle objectives are:

(1) To monitor, investigate and, when appropriate, take action against mergers and joint ventures that may substantially lessen competition, tend to create a monopoly, or otherwise violate the laws administered by the Commission.

(2) To scrutinize industries for evidence of horizontal restraints and relationships that may have the effect of raising prices, impeding entry or expansion, or otherwise blunting the competitive incentives of firms, and to take appropriate action against such restraints.

(3) To investigate and take appropriate action to eliminate or prevent distributional arrangements that adversely affect competition.

(4) To investigate apparent problems of market dominance and market power, and to take appropriate enforcement action to rectify such problems.

(5) To investigate single-firm, anticompetitive conduct, including abuses of governmental processes, and initiate enforcement action as appropriate.

(6) To perform specific responsibilities mandated by various United States statutes, including the Hart-Scott-Rodino Antitrust Improvements Act, the Railroad Revitalization and Regulatory Reform Act, and the Deepwater Port Act.

(7) To provide information, advice and assistance to the Congress, and to various federal, state, and local government bodies, concerning competition-related issues, with particular emphasis on the elimination of regulations that may unduly limit the supply or raise the prices of essential consumer goods and services.

(8) To assure compliance with Commission orders to cease and desist from certain conduct, to undertake divestiture, or direct persons to take any other action, and to investigate and take appropriate action against instances of non-compliance.

(9) To provide guidance and information to those seeking to comply with the laws administered by the Commission.

SUMMARY OF PROGRAMS

The Commission budget includes 465 workyears and $37,256,000 for the Maintaining Competition Mission. With this level of funding, the Commission would have the means to carry forward into fiscal 1991 existing matters and to initiate a number of enforcement, advocacy, advisory, policy analysis, and other activities.

PREMERGER NOTIFICATION PROGRAM

This program provides for the operation of the statutory premerger notification program which allows us to review most significant mergers, acquisitions and joint ventures prior to their consummation. This program will also continue to investigate possible violations of the reporting requirements of the Hart-Scott-Rodino Act and the Commission's rules administering that Act.

The Premerger Notification Program has been operational for 11 years, and the number of filings continues to increase at a rate of approximately 10% a year. Over this period, the staff resources have been stretched to the limit in processing applications and providing technical assistance and advice to the public.

One critical area in which we could use more resources is the rulemaking process. During the 11 years of operation, numerous changes have occurred in the program, but because of the statutory timeframes that must be met to review the merger filings we receive, we have fallen behind on rulemaking and codification of current procedures. The proposed increase of one workyear for the Premerger Notification program would allow us to proceed with improvements in the program to continue the mandatory process of reviewing the ever-growing number of filings, and to maintain our vigorous program of investigating possible violations of the H-S-R Act.

MERGERS AND JOINT VENTURES PROGRAM

This program will investigate those mergers, acquisitions, and joint ventures that come to our attention during fiscal 1991, and challenge those that appear likely to engender injury to consumers. We expect to focus particularly on those industries, such as energy and natural resources, health care, transportation, and food, in which the Commission has developed a special expertise. In addition, this program includes ensuring compliance with orders requiring divestitures or prior approval of future acquisitions.

The requested increase of three workyears for FY-1991 for the Mergers and Joint Ventures Program would, among other things, assure sufficient resources to pursue all necessary full-phase investigations. The additional staffing would also allow us to provide more follow-up investigations to monitor the outcome of Commission decisions, and reduce the potential "burnout" problem that exists with a limited staff facing a continually growing workload, as evidenced by the increasing number of premerger notification filings.

HORIZONTAL RESTRAINTS PROGRAM

This program will consist of investigations and litigation against suspected collusion among competitors. A major feature of this program consists of the Commission's efforts in the health care industry and other licensed occupations, including investigating and challenging boycotts, concerted efforts to restrict the practice of health care providers such as HMO's, PPO's, or non-physician providers, agreements among competitors to restrict price or other forms of competition among them, and collusive restraints on truthful advertising or efficient business practices. Moreover, this program will continue to provide advice to courts, Congress and federal and state agencies. In addition, this program will focus on the structure and conduct of bid depositories, activities of trade associations and standards-setting organizations, and monitoring and enforcing compliance with outstanding Commission orders prohibiting horizontal activity.

The workload in the Horizontal Restraints Program continues to grow, particularly in the increasingly complex health care industry. The proposed addition of two workyears for the Horizontal Restraints Program would permit us to increase the number of full-phase investigations we undertake, and to increase the staffing of investigations where needed, to provide greater assurance that enforcement decisions will be based on adequate factual records. In addition, it would allow us to provide better service to the public in the way of advisory opinions and competition advocacy activity.

DISTRIBUTIONAL RESTRAINTS PROGRAM

This program will investigate and prosecute suspected anticompetitive resale price maintenance; price discrimination, including power-buyers inducement of discriminating prices; and nonprice vertical restraints. The program also includes ensuring compliance with existing orders.

The additional workyear requested for this program will allow more resources for competition advocacy and policy analysis.

SINGLE FIRM VIOLATIONS PROGRAM

This program will consist of the investigation of suspected instances of price or nonprice predations, or monopolization or attempted monopolization, and of other abuses by firms with market power protected by entry barriers, and where appropriate, the litigation of such matters. The program includes ensuring compliance with existing and future orders.

ANTITRUST POLICY ANALYSIS PROGRAM

This program provides economic support to the law enforcement activities of the Maintaining Competition Mission. If the law enforcement workload permits, economists will also undertake or complete studies in order to further our knowledge and understanding of those market situations in which antitrust action will result in a more competitively functioning economy. Areas of interest include: the effects of the cartel-like characteristics of the regulation on innovation and productivity, and the effects of entry on competition among hospitals.

FISCAL 1989 ACCOMPLISHMENTS

PREMERGER NOTIFICATION

During Fiscal 1989, the Premerger Notification Office received 5,530 HSR filings for 2,883 transactions, an increase of 6.9 percent in filings, and a 5 percent increase in transactions reported for Fiscal 1988.

The Premerger Notification Office reviewed these filings for compliance with the HSR reporting requirements, and prepared summaries of every transaction for review by the Bureau's Merger Screening Committee. The Premerger Notification Office staff also responded to approximately 17,000 inquiries regarding application and interpretation of the HSR rules.

At the request of the Commission, the Department of Justice filed a complaint and settlement in one matter involving a violation of the HSR Act. In The Great Atlantic & Pacific Tea Co., Inc., the complaint charged that A&P structured its acquisition of Waldbaum's as an acquisition by a general partnership for the purpose of avoiding the notification and waiting requirements of the HSR Act. The complaint charged that the substance of the transaction was an acquisition of Waldbaum's by A&P. A&P agreed to settle the charges by paying a civil penalty of $3 million. This is the largest civil penalty obtained for a violation of the HSR Act.

MERGERS AND JOINT VENTURES

During fiscal 1989, the Commission issued "requests for additional information" relating to 35 separate mergers or acquisitions. The Commission also authorized seven preliminary injunction actions: General Electric/Union Carbide; Textron/Avdel; BOC/Varian Associates; Red Food Stores/Kroger; U.S. Can/Armstrong Industries; Autoclave Engineers/Tylan Corp.; and Elf Aquitaine/Pennwalt. In carry-over matters, the parties to two acquisitions -- in McKesson/Alco and McKesson/Northwest -- abandoned the transactions after the Commission had authorized injunction actions in fiscal 1988.

In the General Electric/Union Carbide, BOC/Varian, and Autoclave Engineers/Tylan matters, the parties abandoned the transaction before the Commission filed its injunction application. Shortly after the Commission authorized the staff to seek injunctive relief in Elf Aquitaine/Pennwalt -- but before the filing of the Commission's preliminary injunction application in federal court -- the Commission entered into a consent agreement pursuant to which Elf Aquitaine agreed to divest Pennwalt's polyvinylidene fluoride/vinylidene fluoride plant in Thorofare, N.J. In Textron/Avdel, the Commission obtained from the district court a stipulated injunction and hold-separate agreement, pursuant to which Textron will hold separate the business of Avdel and a court-appointed trustee will oversee the operation of Avdel pending completion of administrative proceedings. The courts denied the Commission's application for injunctive relief in Red Food Stores/Kroger.

The Commission also issued administrative complaints in three merger cases in fiscal 1989. In Hoechst Celanese Corp., the Commission's complaint alleges that the acquisition may substantially lessen competition in the market for acetal, a type of engineering resin. In Textron/Avdel, the complaint claims that the transaction may lessen competition in markets for aerospace blind rivets and non-aerospace structural blind rivets. The complaint in Promodes, S.A. (the administrative litigation over the Red Food/Kroger acquisition) charges that the acquisition may diminish competition among Chattanooga, Tenn. supermarket firms.

Meanwhile, administrative litigation continued (or was concluded) in a number of merger cases in fiscal 1989. In Owens-Illinois/Brockway, involving Owens-Illinois' acquisition of Brockway, Inc., the administrative law judge found that the transaction was likely to substantially lessen competition in the production and sale of glass containers, and he ordered divestiture of the acquired Brockway assets and certain additional relief. (Owens-Illinois is now on appeal to the Commission.) In Occidental Petroleum/Tenneco, the administrative law judge's initial decision is before the Commission on appeal. The Coca-Cola/Dr Pepper case is in pretrial proceedings, with the trial scheduled to begin in February 1990. In Coca-Cola Bottling Southwest -- involving the acquisition of certain assets (including bottling franchise rights) from the San Antonio Dr Pepper Bottling Company -- the parties continued to conduct pretrial discovery, and the Commission reached a consent settlement with one of the respondents, the Dr Pepper/Seven-Up Companies (described in more detail below). The litigation in PPG/Swedlow, involving a transaction between firms in the aircraft transparency market, was concluded as to PPG with a consent settlement following the parties' abandonment of the acquisition; the consent requires prior Commission approval of certain future acquisitions for a period of 10 years. During the pendency before the Second Circuit of respondent's appeal in B.F.

Goodrich/Diamond Shamrock -- in which the Commission had found a violation in the market for vinyl chloride monomer -- Goodrich and the Commission reached a settlement providing for the divestiture of a VCM plant different from the one originally ordered divested. Earlier in the same case, the Commission and Occidental Petroleum Corp. had entered into a stipulation that provided for a continuing feedstock arrangement. Following the Seventh Circuit's affirmance of the Commission's power to seek rescission of a transaction, the administrative complaint in Illinois Cereal Mills/Elders was withdrawn from adjudication as to Illinois Cereal for the purpose of negotiating a consent agreement. Although the companies have abandoned the proposed acquisition, the matter remains in adjudication as to Elders. In MidCon/United Energy Resources, the Commission dismissed the count in the complaint that dealt with offshore pipelines, upon a finding that the transaction was unlikely to result in anticompetitive effects. (The count dealing with onshore pipelines had been the subject of an earlier consent order.) In Textron/Avdel, the parties conducted pretrial discovery in anticipation of an administrative trial scheduled to begin in February 1990.

A number of consent orders and agreements have flowed from the merger program in fiscal 1989. The Commission issued a consent order requiring divestiture and prior approval in West Point-Pepperell, Inc., which involved the competitive effects in the sheet and towel markets caused by West Point-Pepperell's acquisition of J.P. Stevens & Co. A consent order issued in the KKR/RJR Nabisco matter required divestiture of certain assets in the catsup, packaged nut, and Oriental food businesses. In Sun Co./Atlantic Petroleum, the consent order required the respondent to divest gasoline terminals and related retail marketing assets in Williamsport, Pa. and Binghamton, N.Y. (for further details, see below). In PepsiCo/General Cinema, the Commission's order required divestiture of overlapping operations in Staunton, Va. and Broward County, Fla. The order in Panhandle Eastern/Texas Eastern requires divestiture of overlapping natural gas pipeline operations in the Gulf Coast area and other relief (including the appointment of a trustee to oversee the divestiture process). As noted above, the Commission also issued a consent order against PPG Industries in the PPG/Swedlow litigation. Another litigation settled by a consent was Pacific Resources/Shell, in which the respondent agreed to an order requiring prior approval of certain acquisitions (the transaction itself was abandoned).

In addition to these final consent orders, the merger program yielded a number of consent agreements in fiscal 1989 that were placed on the public record for comment. In Arkla/TransArk Pipeline, the proposed order required the divestiture of the TransArk Pipeline or, if the Commission were to permit it, the divestiture of Arkla's interest in any other pipeline in the same market. In MTH Holdings/Grand Union, the proposed order required the divestiture of 16 stores in 12 cities and towns in Vermont and New York State, as well as a moratorium on future acquisitions and other relief. As described above, the agreement negotiated in Elf Aquitaine/Pennwalt provided for the divestiture of a PVDF/VF_2 plant in Thorofare, N.J., an acquisition moratorium, and other relief. Finally, in the litigation against Coca-Cola Bottling Southwest, the Commission reached a consent agreement with another respondent, the Dr Pepper/Seven-Up Companies, providing that Dr Pepper/Seven-Up will take no action that would interfere with the Commission's ability to fashion relief against Coca-Cola Bottling.

There was also considerable activity involving extant Commission orders in the merger area. B.F. Goodrich Co. requested Commission approval of the divestiture of a vinyl chloride monomer plant in Calvert City, Ky., to Sterling Chemicals Inc.; more recently, Goodrich filed a substitute proposal involving the divestiture of the Calvert City plant to a different acquirer. In L'Air Liquide S.A., the Commission modified the consent order to permit the consolidation of L'Air Liquide with Big Three Industries and also approved L'Air Liquide's proposal to divest certain interests in the production of argon from the Geismar plant in Louisiana. The Commission also approved an acquisition pursuant to the order in Great Lakes Chemical; meanwhile, Great Lakes filed a still-pending request for approval of another acquisition. In Flowers Industries, the Commission granted prior approval to one acquisition (involving Winn-Dixie); another request by Flowers for prior approval of an acquisition is pending before the Commission. Flowers also requested that the Commission reopen and modify the order so as to eliminate the prior approval requirement. In InterNorth, Inc., the Commission approved two proposed divestitures and also prevailed in a federal court action concerning a third party's right of first refusal in property subject to the divestiture order. The plaintiff's appeal of that federal court ruling is pending in the U.S. Court of Appeals for the Fifth Circuit. In Sun Co./Atlantic Petroleum, the Commission approved Sun's divestiture of the Binghamton terminal and related assets to Amerada Hess and the divestiture of the Williamsport properties to subsidiaries of Coastal Corp. The Commission also granted prior approval of an acquisition in General Electric. In LaFarge Canada Inc., the Commission approved a proposed acquisition and also modified the order in part. In Cooper Industries, Inc., Cooper agreed to a stipulated final judgment providing for, inter alia, a civil penalty of $100,000 after making an acquisition without the prior Commission approval required by the order. In MidCon/United Energy, MidCon agreed to a stipulated judgment providing for a civil penalty of $100,000 for failure to divest by the date set forth in a consent order. In West Point-Pepperell, the Commission denied the respondent's application for an extension of the time within which to divest certain sheeting facilities; moreover, West Point-Pepperell filed -- but ultimately withdrew -- a petition to reopen and modify the order that sought Commission authorization to divest the Columbus plant in lieu of the Hanna-Pickett and Abbeville plants. Finally, in

KKR/RJR, the Commission approved the proposed divestitures of the Chun King Oriental food business and of the Fisher Nut business.

HORIZONTAL RESTRAINTS

In fiscal 1989, the Commission continued to devote substantial resources to eliminating anticompetitive agreements among competitors, especially in markets for professional and health care services. In implementing its program against anticompetitive horizontal restraints, the Commission has used various means, including advocacy before regulatory agencies and state legislatures, cooperative efforts resulting in voluntary compliance, consent orders and litigation.

During the fiscal year 1989, the Commission issued decisions and orders in the following cases: Detroit Auto Dealers (agreement on hours of operation); New York Chiropractic Association (member boycott of a third-party payer in order to obtain higher reimbursement); Huntsville Physicians (concerted opposition by a group of physicians to an HMO by pressure on physicians contracting with the HMO); Iowa Chapter of the American Physical Therapy Association (restrictions on employment of physical therapists by physicians); Dickenson County Physicians (boycott of a hospital by physicians opposed to the hospital-owned clinic and employment of physicians by the clinic).

During fiscal 1989, the Commission's staff has conducted numerous investigations of allegedly anticompetitive regulations of state licensing boards and private professional and trade associations. Such regulations can have the purpose or the effect of fixing or stabilizing prices or reducing output, thus causing substantial injury to consumers. A number of these investigations have been closed after the board, upon consultation with Commission staff, voluntarily eliminated regulations imposing horizontal restraints. The Commission's investigations have involved competition among pharmacists, veterinarians, accountants, funeral service providers, engineers and architects.

The Commission staff has also investigated allegations of efforts by health care providers collectively to coerce higher fees from third-party payers or to prevent competition from allied professionals or alternative delivery systems, restrictions on advertising and other forms of competition by a wide variety of trade and professional associations, and allegations of the misuse of government processes to disadvantage competitors.

In addition, during fiscal 1989, the Commission's staff has provided advisory opinions, comments and guidance to regulatory agencies and private groups to ensure that their regulations or activities do not impose unreasonable horizontal restraints. These advocacy activities have dealt with various economic sectors, including health care marketing and delivery, certificate-of-need regulation in the health care field, trucking regulation, taxicab regulation, pre-need funeral legislation, and public accounting legislation. Finally, the Commission filed amicus briefs in Nurse Midwifery Assc. v. Hibbet and Bolt v. Halifax Hospital. Both briefs dealt with legal issues that commonly arise in cases involving horizontal restraints in the health care sector.

DISTRIBUTIONAL ARRANGEMENTS

During fiscal 1989, the Commission continued to investigate, and has initiated new inquiries into possible unlawful restraints upon the distribution of goods or services in the marketplace. The types of restraints examined by the Commission include unlawful refusals to deal, dealer terminations, interference with a competitor's sources of supply, and agreements that exclude, restrict or impede a rival from competing in the open market.

The Commission staff is litigating challenges to the pricing practices of eight major book publishers; reviewing the public comments on the proposed revisions to the Fred Meyer Guides, which advise businesses regrading discriminatory advertising and promotional allowances; and monitoring for violations of the Robinson-Patman Act, which prohibits price discrimination and promotional allowances or discounts unless made available on a proportionally equal basis to all purchasers for resale.

SINGLE FIRM VIOLATIONS

During fiscal 1989, the Commission has continued investigations into possible abuses of market power, including possible abuse of the patent process and other practices that may raise rivals' costs as a means to destroy competition. The Commission staff is examining additional circumstances in which nonprice predation may be an effective anticompetitive tool. Additionally, Commission staff carefully considers all complaints it receives alleging predatory pricing, although such complaints seldom entail violation of applicable legal standards.

ANTITRUST POLICY ANALYSIS PROGRAM

During fiscal 1989, the Bureau of Economics undertook a number of new research projects in support of the antitrust mission of the Commission. These research initiatives included studies of: potential entry by pipelines in natural gas markets, hospital mergers, competition in the provision of government services, hospital rate regulation, airport control tower privatization, grocery retailing concentration, the regional effects of trade restraints, and petroleum import tariffs. The Bureau also began studies of the effects of firms of ITC dumping and subsidy cases and the market effects of the FTC's decisions not to challenge certain mergers. In addition, the Bureau completed a number of other projects and released staff reports on (1) the cost of trade restrictions on textiles, steel, and automobiles, (2) mergers in the US petroleum industry, and (3) sham litigation.

FISCAL 1991 BUDGET REQUEST
(dollars in thousands)

Mission: **Maintaining Competition**

Program Description	Fiscal 1990		Fiscal 1991		Change	
	Wkyrs	Amount	Wkyrs	Amount	Wkyrs	Amount
Premerger Notification	49	$2,886	50	$3,078	1	$192
Mergers & Joint Ventures	145	8,806	148	9,381	3	575
Horizontal Restraints	92	5,417	94	5,773	2	356
Distributional Arrangements	12	718	13	799	1	81
Single Firm Violations	12	720	12	755	...	35
Antitrust Policy Analysis	4	231	4	242	...	11
Other Direct Mission Resources	19	1,692	19	1,721	...	29
Total Direct Mission	333	20,470	340	21,749	7	1,279
Support Activities Allocation[1]	124	15,231	125	15,507	1	276
Total Mission	457	35,701	465	37,256	8	1,555

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[1] Included are the cost of support organizations plus space and equipment rents, telecommunications, postage, Federal Register printing, library materials and other overhead expenses.

PROGRAM SUMMARY

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MISSION MAINT. COMP.	PROGRAM NAME PREMERGER NOTIFICATION	CODE A	DATE 01/10/90

DESCRIPTION OF PROBLEM AREAS AND LONG-RANGE GOALS

The Hart-Scott-Rodino (HSR) Premerger Notification Program, enacted as Sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and codified as Section 7A of the Clayton Act (HSR Act), requires persons planning significant mergers or acquisitions to file notifications with the Commission and the Department of Justice and delay consummation for a prescribed period of time. The HSR Act was enacted to provide the antitrust enforcement agencies with a meaningful opportunity to review transactions and to take enforcement action, if appropriate, to prevent consummation of transactions that violate the antitrust laws.

The Commission administers the program and is responsible for ensuring compliance with the program's requirements. The long-range goal of the program is to ensure that the agencies have an opportunity to review transactions before they are consummated, while minimizing the burden on filing parties.

MAJOR OBJECTIVES AND STRATEGIES

The program's objectives are to:

(1) Encourage voluntary compliance by persons subject to the HSR Act; and

(2) Screen all transactions to identify those that may pose serious antitrust concerns.

The Commission's basic strategy is to ensure voluntary compliance by providing as much assistance as possible to persons subject to the Act, and by aggressively prosecuting violators. To this end, the Commission's Premerger Notification Office provides informal advice regarding the application and interpretation of the HSR Act and rules; makes recommendations for improving the HSR rules, and works to increase reliance on automated systems to improve speed, accuracy and efficiently. For those instances in which it appears that persons have not complied with the HSR reporting requirements, the Bureau of Competition's litigation divisions conduct investigations and recommend seeking civil penalties where appropriate.

To identify those transactions that may pose serious antitrust concerns, the Premerger Notification Office prepares a summary description and a preliminary antitrust analysis of every transaction reported. These summaries are then reviewed by the litigating divisions, the Bureau of Economics, and the Merger Screening Committee.

IMPACT STATEMENT

The proposed level of funding will insure adequate staffing for the Premerger Notification Program, the necessary resources in the Bureau of Competition litigating divisions, and the Bureau of Economics to enable them to complete compliance reviews and initial antitrust screening of all transactions reported within existing deadlines. The proposed funding will also allow the Commission to continue to investigate possible violations of the filing requirements. The increased workyear in the fiscal 1991 budget request would allow the Premerger staff the opportunity to provide the general public with more service in the area of legal interpretation of the H-S-R rules. It would also permit the development of rulemakings necessary to refine and codify the current H-S-R reporting process.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	49	2886
FISCAL 91	50	3078
CHANGE	1	192
% CHANGE	2%	7%

PROGRAM SUMMARY			**PAGE** 1 of 2
MISSION MAINT. COMP.	**PROGRAM NAME** MERGERS AND JOINT VENTURES	**CODE** B	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREAS AND LONG-RANGE GOALS

Mergers, acquisitions and joint ventures (hereinafter collectively referred to as mergers) may, in some cases, result in the lessening of actual or potential competition and increase the market power of the joining firms, leading to market dominance or a significantly increased likelihood of collusion. Such transactions can result in increased prices to consumers and limitations on the selection of goods and services. In addition, mergers may increase barriers to entry or expansion, foster interdependent conduct among firms, and suppress competitive vitality at various levels of production and marketing. Interlocking directorates among competing firms also may result in effects similar to those of anticompetitive mergers.

The long range goals of the Commission in this program are to protect consumers by preventing or undoing mergers that threaten to restrict competition and result in higher prices or other forms of consumer harm in violation of Section 7 of the Clayton Act or Section 5 of the Federal Trade Commission Act, and to prevent or undo interlocking directorates that would violate Section 8 of the Clayton Act.

MAJOR OBJECTIVES AND STRATEGIES

A. Objectives

The Commission uses a three-part process to protect consumers against harmful mergers:

1. Detect all potentially harmful mergers before they occur, by monitoring merger activity and screening all significant mergers.

2. Thoroughly investigate those mergers that the screening process has targeted for further inquiry.

3. Take action to prevent (or undo) those mergers that, after investigation and analysis, appear likely to lessen competition.

Performing the first step is a major objective of the Premerger Notification Program (Program A, described above). The objectives of the Merger Program are to perform the second and third steps: Investigate and take enforcement action against potentially harmful mergers.

B. Strategies

1. The dominant strategy to achieve the Commission's second merger objective --the investigation of all transactions that merit further analysis -- will continue to rely upon all investigatory tools available to the Commission, particularly "Requests For Additional Information" under the Hart-Scott-Rodino Act.

2. To achieve its ultimate objective -- the prevention of mergers that may substantially lessen competition -- the Commission will continue to rely on its authority to seek injunctive relief.

3. Where injunctive relief is inappropriate or unavailable, the Commission will rely on its administrative remedial powers to seek to restore competition lost as the result of alleged illegal mergers. The available tools include administrative litigation and consent proceedings. The available remedies include divestiture.

4. To ensure effective remedial relief, the Commission will monitor compliance with orders, initiate enforcement action as appropriate, and modify orders that harm rather than benefit consumers.

5. To promote effective merger enforcement policy, the Commission will undertake or continue projects to increase our understanding of the economic effects of mergers, and engage in competition advocacy before various legislative, administrative and judicial forums.

IMPACT STATEMENT

The proposed level of funding will provide for investigations and litigation (including injunction actions in federal court) concerning mergers involving (a) horizontal competitors; and (b) other situations that may endanger competition, including strong vertical (buyer-seller) relationships or a clear-cut potential competition situation. The proposed level of funding will also provide for

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	145	8806
FISCAL 91	148	9381
CHANGE	3	575
% CHANGE	2%	7%

PROGRAM SUMMARY (Continued)			PAGE 2 of 2
MISSION MAINT. COMP.	PROGRAM NAME MERGERS AND JOINT VENTURES	CODE B	DATE 01/10/90

investigations of (and, if necessary, challenges to) interlocking directorates that may be unlawful. The proposed increase in funding would permit a modest increase in the number of full-phase investigations to keep up with the increase in merger filings; permit increased staffing of investigations where needed to provide greater assurance that enforcement decisions will be based on an adequate factual record; reduce crisis management by providing resources that are more readily available to meet emergency situations; permit better overall management of resources by avoiding "burnout" caused by prolonged heavy workloads; and, permit additional follow-up investigations to monitor the outcome of enforcement decisions.

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PROGRAM SUMMARY			PAGE 1 of 1
MISSION MAINT. COMP.	PROGRAM NAME HORIZONTAL RESTRAINTS	CODE C	DATE 01/10/90

DESCRIPTION OF PROBLEM AREAS AND LONG-RANGE GOALS

Horizontal restraints, such as price-fixing and other anticompetitive behavior among direct competitors, generally injure consumers by elevating prices and reducing the quantity and quality of goods and services.

Horizontal restraints may take the form of collusive behavior, conduct that facilitates collusion, and governmental restraints on competition. The general consequences of these practices may be to deny consumers and businesses access to the optimal variety, quantity, and quality of goods and services at competitive prices, and to deny sellers the opportunity to produce, distribute, and sell goods or services in the variety and quantity at the prices that they would select under competitive conditions.

A particular focus of the program is the health care industry, in which costs have been rising rapidly. The supply, quality, and cost of professional health services may be affected by numerous factors, including competition among health care providers, the availability in the marketplace of information about health care services and their cost, the nature of price-setting mechanisms, health care prepayment and financing programs, innovations in health care delivery, government regulations and benefit programs, competition among institutions in which professional health services are provided, competition among manufacturers of specialized equipment used in the delivery of health care services, and competition among providers of health insurance and other prepaid health care benefits.

The goals of the Horizontal Restraints Program are to: (1) reduce the incidence of private agreements that raise prices and diminish the quality and quantity of goods and services; and (2) limit the extent to which businesses and professionals are permitted to engage in anticompetitive or collusive activities under the aegis of governmental or self-regulation.

MAJOR OBJECTIVES AND STRATEGIES

The objectives of the Horizontal Restraints Program are:

1. To detect, investigate, and prevent anticompetitive collusion or courses of action that facilitate collusion among competitors; and

2. To eliminate to the fullest extent possible governmental and private restraints that limit the right to engage in competition.

The Commission plans to employ a strategy of investigation and litigation in pursuing these objectives. In addition, reports and comments to federal, state, and local government agencies; *amicus curiae* briefs; and advisory opinions will be provided where appropriate.

IMPACT STATEMENT

The proposed resource level of activity in the Horizontal Restraints Program will permit investigation and, if appropriate, litigation concerning matters involving collusion among competitors, possibly anticompetitive activities of trade associations or standards-setting organizations, and horizontal restraints under the aegis of governmental regulation that may distort pricing mechanisms or otherwise restrain competition. This level of resources should result in a significant reduction in the incidence of collusive practices among competitors, in the potentially anticompetitive effects of ethical codes of trade and professional associations and of industry standards, and in the prevalence of governmental regulatory restraints on competition among commercial and professional competitors. The requested increased level of funding would permit a modest increase in the number of full-phase investigations that otherwise would not be undertaken because of resource limitations, and permit increased staffing of investigations where needed to provide greater assurance that enforcement decisions will be based on adequate factual records.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	92	5417
FISCAL 91	94	5773
CHANGE	2	356
% CHANGE	2%	7%

PROGRAM SUMMARY

			PAGE 1 of 1
MISSION MAINT. COMP.	**PROGRAM NAME** DISTRIBUTIONAL ARRANGEMENTS	**CODE** D	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREAS AND LONG-RANGE GOALS

The Distributional Arrangements program generally covers restrictions on the distribution of goods from manufacturers to consumers. Potentially unlawful conduct includes restrictions on the resale pricas of goods (and other terms of sale) as well as restrictions on the marketing decisions of firms in the distribution chain. They may result from agreements between suppliers and purchasers, or from the coercion of purchasers by sellers (or vice-versa). The program also includes discrimination in price, terms of sale, advertising allowances, and other merchandising services that tend to deny competitive opportunities to firms in the distribution chains and may injure consumers. Restraints on distribution can limit sources of supply or restrict channels of distribution in ways that increase prices to consumers or reduce the quality of goods sold.

The goal of the Distributional Arrangements program is to detect and remedy coercive, collusive, discriminatory, or other harmful arrangements that may exist between sellers and purchasers, and to restore competition and its benefits.

MAJOR OBJECTIVES AND STRATEGIES

In its Distributional Arrangements Program, the Commission seeks to:

(1) prevent unlawful agreements between suppliers and distributors or retailers on resale prices;

(2) eliminate harmful discrimination in prices and promotional opportunities; and

(3) prevent the anticompetitive foreclosure of distributors or dealers from sources of supply or access to customers.

The Commission's principal strategies are investigation and litigation. As appropriate, the Commission will also issue guidelines or policy statements and advisory opinions and engage in competition advocacy.

IMPACT STATEMENT

At this level of resources, the Commission should be able to conduct litigation and investigation of resale price maintenance, price discrimination, and other types of distributional arrangements. The additional workyear increase will allow more resources for competition advocacy and policy analysis.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	12	718
FISCAL 91	13	799
CHANGE	1	81
% CHANGE	8%	11%

PROGRAM SUMMARY			PAGE 1 of 2
MISSION MAINT. COMP.	PROGRAM NAME SINGLE FIRM VIOLATIONS	CODE E	DATE 01/10/90

DESCRIPTION OF PROBLEM AREAS AND LONG-RANGE GOALS

A single firm with market power can reduce output and increase price above the competitive level, thereby injuring consumers and misallocating society's resources. Where the firm is protected by entry barriers, these harms can persist for long periods.The long-range goal of the Single Firm Violations Program, therefore, is to prevent or remedy instances in which market power has been created, maintained, or enhanced through anticompetitive behavior and in which entry barriers exist that protect the anticompetitive results of a firm's conduct. In particular, this program focuses on alleged instances of nonprice predation, *e.g.*, abuses of governmental process for the purpose of maintaining or enhancing market power. Thus, the program is the primary vehicle within the Maintaining Competition Mission for identifying, analyzing and prosecuting cases in which dominant firms have allegedly engaged in anticompetitive practices in an attempt to acquire, maintain, or extend substantial market power. Additionally, in some instances a firm, with or without market power as that term is traditionally used, may, through anticompetitive conduct raise its rivals' costs and thereby injure competition. This program is also the primary vehicle for dealing with such cases.

MAJOR OBJECTIVES AND STRATEGIES

The program's objective is to prevent the acquisition or maintenance of market power or increases in rivals' costs through anticompetitive behavior, particularly misuse of governmental processes. If this program is successful, the result would be reduced prices, increased output, and enhanced innovation.

Strategies to be employed include investigation of and litigation against anticompetitive practices, competition advocacy, and legal and economic policy analysis.

IMPACT STATEMENT

At this level, the program should provide resources for enforcement action against monopolization, price or nonprice predation, intervention in matters before governmental bodies for the purpose of reducing barriers to entry or predatory conduct, and legal and economic analysis of market power issues.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	12	720
FISCAL 91	12	755
CHANGE	0	35
% CHANGE	0	5%

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PROGRAM SUMMARY

			PAGE 1 of 1
MISSION MAINT. COMP.	PROGRAM NAME ANTITRUST POLICY ANALYSIS	CODE F	DATE 01/10/90

DESCRIPTION OF PROBLEM AND LONG-RANGE GOALS

Government policy aimed at maintaining competition can have important effects on market performance. The development of sound policy requires a knowledge of the effects of past and prospective antitrust actions and of the industries and markets that are affected by these actions. Several types of economic analysis can advance such an understanding. Studies of the effects of particular antitrust policies can provide valuable insight into the competitive functioning of the market. Analyses of the likely effects of entry impediments and market institutions in particular industries can help develop an understanding of those factors that may cause competitive problems and whether such problems can be efficiently remedied through antitrust policy. In addition, cross-section studies that examine relationships among economic variables over many industries and/or firms may allow us to discern general patterns among the variables that tend to lead to better or worse performance.

The long range goal of this program is to provide the Commission, Congress, and the public with analyses of the impact of antitrust and competition policy. These analyses examine particular industries where problems may exist, particular government policies that may be causing competitive problems, and particular practices and factors that affect performance of a variety of industries.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of the Antitrust Policy Program are to: 1) increase our knowledge about those situations in which antitrust action will increase consumer welfare, and 2) further the understanding of the role of trade restraints in advancing or retarding a competitively functioning economy.

The strategies that will be followed for this program include: a) conducting original economic studies of specific industries and of cross-sections of industries to determine where and when antitrust activity may be appropriate; b) conducting original empirical economic studies of the effects of trade restraints on consumers and producers; c) performing analyses drawing extensively on existing research to advise policymakers on specific antitrust and trade policy decisions; d) providing access to the Line of Business data for qualified academic researchers; e) presenting the findings of these analyses to the Commission, the Congress, and the public in reports, testimony, invited commentary, and other means as appropriate.

IMPACT STATEMENT

This level of activity will permit us to continue our limited level of competition research. Possible study areas include: analyses of the effects of previous FTC Orders in the real estate and hospital privileges areas; an extension of prior work on trade restraints using our CGE model to examine the effects of trade restraints on the distribution of consumers income; an analysis of the effects of product branding and why branding varies so widely across different products; and an empirical examination of the effects of vertical restraints such as exclusive dealing or resale price maintenance in insuring manufacturer's desired quality or service provision.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	4	231
FISCAL 91	4	242
CHANGE	0	11
% CHANGE	0	5%

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PROGRAM SUMMARY			PAGE 1 of 1
MISSION MAINT. COMP.	**PROGRAM NAME** OTHER DIRECT MISSION RESOURCES (BC,BE,RO)	**CODE** W10	**DATE** 01/10/90

Description of Problem Areas and Long-range Goals

The Maintaining Competition Mission (MC) requires that the diverse goals of its substantive programs be coordinated in budgeting and administration through the efforts of the Director and Deputy Directors of the Bureau of Competition and the Bureau of Economics with the assistance of the Bureau Assistant Directors and Regional Directors. The overall goal of this program is to maximize the efficient utilization of all the resources of the Commission's Maintaining Competition Mission, and to provide for more effective management control of those resources.

MAJOR OBJECTIVES AND STRATEGIES

The objectives of this program are to:

1. Provide sufficient personnel and funds to manage Bureau resources and increase the effectiveness of Bureau of Economics and Regional Office support to the Mission through improved coordination among bureau and offices;

2. Insure that the appropriate information regarding mission activities is maintained, that responses are made to proper inquiries, and that correspondence is processed expeditiously;

3. Insure proper liaison with the Department of Justice and other government agencies and execute responsibilities under treaties and legislation governing international notification.

Strategies will include careful policy and budget systems analysis; continued development of our automated program; efficient assignment of current staff; improved recruiting policies and procedures;and on-going evaluation and training of Bureau personnel.

IMPACT STATEMENT

At this funding and workyear level for the MC mission, the Bureau will be able to provide overall supervisory control of all litigation, compliance, and allied divisions, through improved coordination of activities involving the Bureau of Economics and the Regional Offices.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	19	1692
FISCAL 91	19	1721
CHANGE	0	29
% CHANGE	0	2%

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CONSUMER PROTECTION MISSION
OVERVIEW STATEMENT

LONG-RANGE GOALS

The Consumer Protection Mission strives to maintain a well-functioning marketplace that allows consumers to make informed purchase choices. The Mission seeks to halt or prevent deceptive and unfair practices that hinder optimum market performance. The Mission also works to identify and correct instances where restrictions placed on products or markets diminish consumers' ability to choose the goods and services that they desire.

MAJOR OBJECTIVES

The Consumer Protection Mission's major objectives are to:

(1) reduce marketplace restrictions that inflate prices and limit available goods and services without providing offsetting benefits;

(2) increase the usefulness of advertising by creating incentives for advertisers to make accurate claims;

(3) encourage sellers to provide necessary product information so that buyers can make informed choices from a wide variety of goods and services;

(4) reduce instances of fraudulent or deceptive sales and marketing practices;

(5) prevent creditors from using unlawful practices in the granting of credit, the maintenance of credit information, the collection of debts, and the operation of credit systems;

(6) enable buyers to realize their reasonable expectations concerning product reliability and performance and ensure that sellers honor warranties; and

(7) ensure compliance with Commission orders and Mission objectives.

SUMMARY OF PROGRAM

The fiscal year 1991 Consumer Protection Mission request includes 505 workyears and $39,734,000. This is an increase of 12 workyears and $1,819,000 over fiscal year 1990. This resource level will allow the continuation of activities directed toward achieving the Mission's goals and objectives, as well as, provide additional resources required to expand its law enforcement activities in several program areas.

FISCAL 1991 PROGRAM SUMMARY

Enforcement

The Enforcement program will continue to pursue the dual goals of enforcing Commission orders and ensuring that statutory and rule requirements and reporting responsibilities are met. The primary objectives of order enforcement are to promote a free and competitive market in which consumers can obtain and make use of truthful purchasing information and benefit from fair market practices, as prescribed by the orders. Rule enforcement seeks to ensure that essential prepurchase information is provided to consumers for making value comparisons of packaged and labeled commodities. Enforcement actions will seek to remedy consumer injury by obtaining civil penalties, injunctions, and where economic loss has occurred, consumer redress, as sanctions against order and rule violators. Industries governed by rules and companies under Commission order will be monitored for potential violations. Investigations will be initiated where appropriate.

Marketing Practices

The goals of the Marketing Practices program are to identify, halt, and redress injury caused by unfair and deceptive practices in the marketing and sale of a variety of products and services and to ensure that companies honor warranty and other contractual commitments. The program will continue to work with NAAG, state and local law enforcement agencies, other federal law enforcement agencies, consumer organizations, and industry associations to identify fraudulent practices in the deceptive sales area, including telemarketing fraud. Resources would be available to bring matters into court, and would permit the examination of investigative targets in the deceptive sales, product information, and warranty areas. The Franchise, Funeral, and Magnuson-Moss rules will be enforced, carryover litigation and investigations will continue, and new investigations will be initiated, where appropriate. In addition the ANPR processes of the Informal Dispute Settlement and Franchise Rules will be completed. The three workyear increase requested for this program will fund several new investigations and cases in the areas of hard core fraud, other point of sale deceptions, and Franchise Rule violations.

Advertising Practices

The mission of the Advertising Practices program is to ensure that advertising is truthful and not misleading, thus protecting the informational benefits of advertising. Advertising monitoring activities will continue. Resources would continue to be devoted to specific program areas of longstanding Commission involvement, such as children's advertising, advertising directed at the elderly, food advertising, and advertising of health care products and services will continue. The requested increase of four workyears in this program will fund investigations and cases focusing on health claims for food and drug products, cosmetic advertising and safety claims, and marketing practices of advertisers. Two federal statutes regulating the advertising and labeling of cigarettes and smokeless tobacco will be administered. In all areas of the program's responsibility, ongoing investigations and law enforcement actions will continue, and new enforcement actions will be initiated as appropriate.

Credit Practices

The Credit Practices program will continue to enforce the federal credit laws subsumed under the Consumer Credit Protection Act and to pursue deceptive or unfair credit-related practices that seriously injure consumers. The program will continue to monitor compliance with the Equal Credit Opportunity Act by finance companies, retail creditors, and mortgage lenders, among others. Violations of the Fair Credit Reporting Act, whether by creditors or credit bureaus will also be monitored. Enforcement actions under the Truth in Lending Act, involving, for example, the advertising or contractual disclosure of the costs of automobile, home mortgage, or other forms of credit will continue. Breach of interest rate commitments by mortgage lenders will be reviewed. Enforcement actions will be taken against debt collectors and others who violate the Fair Debt Collection Practices Act. The program will continue its focus on misleading or fraudulent claims by companies that sell credit "repair" or credit card procurement services to consumers with bad credit histories. Travel scam operators and others who engage in fraud involving credit cards will also be subject to enforcement action.

Service Industry Practices

The goals of the Service Industry program are to facilitate informed consumer choice and increase the availability of less expensive, safe and reliable services and products that consumers desire; facilitate fair competitive opportunities for smaller manufacturers in the standards-setting process; and reduce consumer losses based on false or misleading information. Enforcement activities will continue challenging fraud in the advertising and promotion of the sale of health care diagnostic and treatment services. Law enforcement actions will be proposed to reduce the incidence of investment fraud and deter violators of previously obtained orders. Ongoing standard setting law enforcement activities, and interventions on standards-related questions will proceed. An automated telemarketing fraud data base will be maintained and expanded to assist law enforcement efforts by the Commission, state attorneys general, and other law enforcement agencies. The three workyear increase requested for this program will fund additional investment and health fraud cases, and standards investigations. Appropriate enforcement policies for the Ophthalmic Practices Rule and the Retail Food Store Rule, as amended, will be proposed and administered.

Program Management

This program provides for the planning, evaluation, and management of Bureau and regional office activities and resources. Legal analyses of proposed Consumer Protection matters will continue and all Commission actions will continue to be supported by sound regulatory analyses. Regulatory Flexibility Act and rulemaking studies will be conducted in appropriate areas. Ongoing efforts to improve supervision, management, and administrative processes will continue.

Economic and Consumer Policy Analysis

Economic analyses of Consumer Protection and regulation are conducted under this program. Activities include rulemaking analyses, examinations of the effects of Commission consumer protection programs, and studies of the effects of regulation on consumers. Assistance in Part III adjudicatory matters is also provided to Commissioners upon request.

FISCAL YEAR 1989 PROGRAM ACCOMPLISHMENTS

Enforcement

Civil penalties amounting to $365,000 were ordered in fourteen actions brought under the Enforcement program. In a complaint filed in federal court, the Ronby Corp., the company that franchises the Fred Astaire Danoe Studios, was charged with violating a 1964 Commission order by failing to provide certain cancellation and refund rights to students. Under a consent decree, Ronby agreed to pay $105,000 in civil penalties and is prohibited from violating the order in the future. The order with Ronby was also modified by the Commission. The modified order gives students significantly increased protection by providing them with absolute cancellation and refund rights.

SILO, Inc. was charged with illegally removing EnergyGuides from appliances it sold, in violation of the Energy Policy and Conservation Act and the Appliance Labeling Rule. SILO agreed to pay a $45,000 civil penalty, under a consent order. This was the first Commission enforcement action of both the Rule and the Act.

Milcon Industries, which does business as Blue Ridge Insulation, was charged with misrepresenting the amount of insulation it installed in residential and commercial buildings, in violation of the R-Value Rule and the FTC Act. To settle the charges, Milcon agreed to install additional insulation for certain past customers. It also agreed to pay $10,000 in civil penalties, unless 50 percent of the affected consumers participate in the redress program.

World Products was charged with violating the Mail Order Rule by failing to notify consumers of delayed shipments and failing to pay timely refunds. Under a consent agreement, the company agreed not to violate the rule in the future and to pay a $10,000 civil penalty. Three officers and owners of Northeastern Software were also charged with violating the Mail Order Rule. Under a consent judgment, a $10,000 civil penalty will be paid and the defendants will be prohibited from violating the Rule and from misrepresenting the time periods within which they ship merchandise ordered by telephone. A complaint was filed against High Tech Advertising, a seller of record albums and various other merchandise, charging violations of the Mail Order Rule. The Commission is seeking civil penalties and preliminary and permanent injunctions against the defendants.

Nine companies agreed to pay civil penalties to settle charges of violating the Used Car Rule which requires dealers to display on each used vehicle offered for sale to consumers a window sticker called the "Buyers Guide" containing warranty information and other important disclosures. Five of the companies also were charged with violating the Warranty Disclosure Rule or the Magnuson-Moss Warranty Act, which require retailers to provide specified warranty information in a single document.

Civil penalties of $30,000 were paid by Shelly Cars, $25,000 was paid by Eastside Motors, Goodman Buick paid $17,500, and MFM Auto Sales d/b/a Central Auto Sales paid $15,000 to settle the charges. Ron Price Motors paid $20,000 in civil penalties, Far West Auto Brokers $17,500, Bob Wright Motors $10,000, Plaza Motors $10,000, and Koons Ford of Annapolis $40,000. In addition, a complaint charging violations of the Rule was filed against Aurora Discount Cars.

Budget Marketing, a nationwide telemarketer of magazines, was charged with violating a Commission order by misrepresenting to consumers the true purpose of its calls. The complaint, filed in federal district court, also charged the company with illegally deducting subscription charges electronically from consumers' bank accounts without signed authorizations.

A complaint was filed in federal district court charging Thermex, Inc. with overstating the R-Value and coverage of its cellulose insulation products. The Commission is seeking civil penalties and an injunction barring future violations of the R-Value Rule.

The Commission issued an Advance Notice of Proposed Rulemaking to consider whether the Mail Order Rule should be expanded to cover telephone sales and other newly developing telemarketing technologies. The Rule currently regulates only transactions involving orders placed through the mails. Comment was also sought on whether there is a need to amend the Rule's language that defines when a credit order is properly completed.

The Commission sought comment on whether to initiate a rulemaking proceeding to determine whether to repeal its trade regulation rule concerning "automatic" sewing machines. The 1966 rule prohibits use of the word automatic or similar terms to describe a household sewing machine. The notice seeks public comment on whether sewing machine technology and marketing have changed so that the Rule is no longer needed, and whether the rule still provides any benefits. The Commission also commenced a rulemaking proceeding to determine whether the trade regulation rule concerning deception as to the transistor count of radios should be repealed.

Modifications to the Door-To-Door Cooling Off Rule were adopted by the Commission. The changes are designed to give sellers additional flexibility in providing cancellation notices, while retaining protections for consumers. In addition, the Commission exempted sellers of automobiles at public auctions and tent sales, provided the seller has at least one permanent place of business, and sellers of arts and crafts at fairs.

The Commission granted Exxon a partial exemption from the Octane Rule in connection with its use of gasoline dispensers that have been purchased from Gilbarco, Inc. A request from the Sun Company for a new generic name for a fiber it manufactures under the trade name "VIVRELLE" was denied by the Commission.

The Commission amended the Appliance Labeling Rule to extend its coverage to fluorescent lamp ballasts. Under the Rule, manufacturers must disclose products' energy efficiency ratings and annual operating costs on these labels, enabling consumers to compare the efficiency of various models before they buy. The Commission also amended the rule by revising the table of average unit energy costs to incorporate the latest figures for electricity, natural gas, heating oil, and propane. The Commission determined that the present ranges of comparability for clothes washers and dishwashers will remain in effect until new ranges are published, and published new ranges for refrigerators, refrigerator-freezers, and freezers.

Public comment was sought on the Commission's tentative decision to amend its R-Value Rule to adopt a new test procedure for a kind of insulation. The Rule sets forth exact standards and testing procedures that manufacturers must use to substantiate the R-value of their products.

Marketing Practices

In the Marketing Practices program, two Franchise Rule cases resulted in over $3 million ordered returned to consumers. Engage-A-Car, an auto leasing franchise, agreed to pay $1.5 million into a redress fund to settle charges of misrepresenting its profitability. The KIS Corp., which sold one-hour photofinishing equipment and franchises, agreed to pay $1.55 million to settle charges it made false claims and failing to provide required disclosures to prospective buyers.

In addition, four complaints charging violations of the Franchise Rule were filed in federal district court. Temporary restraining orders and asset freezes were issued in all four cases, including: Investment Developments and its affiliated corporations and principals, marketers of amusement game machine franchises; American Safe Marketing, seller of distributorships to sell fire extinguishers; 7-Day Appraisal Services, seller of real estate appraisal franchises; and National Business Consultants, seller of business opportunities for business consulting services.

Civil penalties of $120,000 were ordered from five companies charged with violating the Funeral Rule. The Rule requires that funeral providers give detailed and accurate information about prices and legal requirements to persons who are arranging funerals. Lucas Funeral Home agreed to pay $20,000, and Errington Memorial Chapel, G.M.J.B., and the James H. Turner Funeral Home will each pay $10,000 in civil penalties to settle charges. G.M.J.B. will also pay up to $4,200 in consumer redress.

The Commission won its first contested lawsuit brought under the Funeral Rule. A federal district court ruled that Dudley M. Hughes, Jr., owner of Dudley Hughes Funeral Company, must pay $80,000 in civil penalties for violating the Rule. Hughes was also permanently prohibited from future violations. This was the largest civil penalty amount imposed in a case involving of the Funeral Rule.

The Commission accepted a consent agreement, subject to final approval, with Robert Lewis Wilks, the former owner of the Barbers Funeral Home. The complaint charged Wilks with failing to provide his customers with goods and services they selected and paid for. Wilks agreed to stop doing business as a funeral service provider, or having any business relationship with any entity selling or offering to sell funeral goods or services to the public.

The Commission accepted a consent agreement with Batesville Casket Co., the nation's largest casket maker, settling charges the company made false claims about the length of time its caskets will keep out air, water, and other gravesite substances.

Administrative complaints were issued against The Hensley Group, a timeshare promoter, and Outdoor World Corporation, a campground promoter. The Commission also filed complaints in federal court against the two companies, and David and Annette Defusco, who owned a company, Lead Marketing, that marketed recreational property. The Commission alleged that the defendants represented in promotional mailings that named consumers had won one or more specified prizes, when the consumers had not won the specified prizes. A federal court issued preliminary injunctions against the DeFuscos, Lead Marketing, and Outdoor World, prohibiting them from misrepresenting that consumers have won specified prizes. The Hensley Group agreed to a stipulated injunction that contains the same prohibitions.

The Commission issued an administrative complaint charging TK-7 Corp. and its president, Moshe Tal, with making false and unsubstantiated advertising claims concerning the performance characteristics of gasoline additives. According to the complaint, the company claimed that its products can improve engine performance by extending engine life, and increasing power, octane, and mileage.

Mytel International, a telemarketer of photocopy supplies, agreed to pay $250,000 to settle charges it deceptively marketed supplies directly and through other sales companies. Mytel agreed to stop doing business with telemarketers that make misrepresentations in their sales.

Traditional Industries was charged with making false claims concerning the quality and value of photographic processing packages it sold to consumers for $300 to $1,500. In a consent decree filed in federal court, the company agreed to settle the charges by changing its sales practices and by permitting some consumers to cancel their contracts. Depending on the number of consumers that qualify and choose to cancel contracts, the total cost to Traditional could exceed $50 million.

A complaint was filed charging Case Equipment Co. and its president with making false and deceptive claims in the marketing of machines that allegedly copy color pictures onto textiles and other surfaces. At the Commission's request, a federal court issued a temporary restraining order forbidding further misrepresentations, and froze the defendants' assets.

Vaughn Management was charged with falsely telling consumers they would receive an "award" for no cost, when in fact consumers had to pay a "processing fee" of $24.50 to $26.50 to obtain their awards. The Commission also alleged that defendants failed to tell consumers who paid the processing fee that they were required to spend hundreds of dollars more to use the airfare vouchers they received as awards. A federal court issued a temporary restraining order halting such misrepresentations and also froze the defendants' assets.

Complaints were filed in federal district court charging two Florida telemarketers with misrepresenting the capabilities of water purifiers they sell and the return or replacement policies for the purifiers. U.S. Consumer Promotions (USCP) was also charged with falsely telling consumers they would receive an award without making a purchase and failing to disclose to consumers that they would have to pay substantial additional sums of money to obtain the award. The court issued temporary restraining orders against USCP and Environmental Protection Systems and froze the defendants' assets. Due to an increase in marketing abuses in the sale of home water purifiers, the Commission also prepared a brochure, with assistance from EPA, to help consumers determine their need for a water treatment unit, what various types of units can do, and especially alerts consumers to deceptive sales practices that unscrupulous sellers may use.

Memphis Lamp was charged in federal district court with unfair and deceptive practices in connection with the labeling of fluorescent and incandescent lamps. The complaint also charges violations of the Commissions's Incandescent Lamp Rule in failure of defendants to disclose "average initial wattage" of the lamps. A temporary restraining order was issued by the court.

A complaint filed in federal district court charged North American Enterprises with misrepresenting prizes offered as part of a promotion to sell vitamins and with failure to honor money-back guarantees.

Ujena, Inc., a swimsuit seller, was charged with not paying promised refunds on mail order or telephone sales, in a timely manner. The Commission accepted a consent agreement in which the company agreed to pay refunds no later than 10 days after receiving requests. The Commission also accepted a consent agreement with Montgomery Ward settling charges that Ward's employees made false and unsubstantiated claims in selling appliance service contracts.

A consent agreement, accepted subject to final approval, with Budget Rent-A-Car settled charges it failed to disclose to prospective renters that it did not inspect automobiles subject to recall notices within a reasonable period of time, and if appropriate, make the necessary repairs. Cooper Rand Corp. was charged with falsely claiming that its lighter-to-lighter automobile battery chargers could restart auto batteries as quickly as jumper cables. In a consent agreement the company agreed not to make false claims about its products and to notify consumers of the limitations of the "Auto Starter."

Richard J. Wiley agreed to settle charges that he used deceptive practices to sell distributorships for energy-saving devices and home burglar alarms. Under a consent judgement, Wiley agreed not to misrepresent any business ventures he offers for sale in the future.

The United States Circuit Court of Appeals for the 7th Circuit affirmed the trial court's decision and judgement of $6.5 million for consumer redress in FTC v. Amy Travel.

In an Advance Notice of Proposed Rulemaking, the Commission sought public comment on whether it should revise its Franchise Rule to encourage more franchisors to provide cost and earnings information to potential purchasers and to eliminate potential inconsistencies in federal and state requirements governing franchise sales. In addition, the Commission granted Saturn Corporation, a wholly-owned subsidiary of General Motors, an exemption from the Rule.

The Commission also published an Advance Notice of Proposed Rulemaking seeking public comment on its Rule Governing Informal Dispute Settlement Procedures, also called Rule 703. Under the Magnuson-Moss Warranty Act, the Commission is responsible for encouraging the use of informal dispute settlement mechanisms as an alternative to court action. The Commission also requested comment on a petition concerning the Rule by two industry groups, and a Memorandum of Opposition to the petition filed by the National Association of Attorneys General.

Public comment was sought on a petition by the State of Texas for statewide exemption from the Funeral Rule. Under the Rule, states can apply for an exemption if they have existing laws that cover the same business practices as the Commission rule.

Advertising Practices

Nine advertising cases resulted in consent agreements accepted by the Commission. General Nutrition Corp. is required to pay a total of $600,000 for research, and is prohibited from making false and unsubstantiated claims about its products. The consent order settles charges that GNC made false and unsubstantiated claims that its diet supplement, "Healthy Greens," was effective in reducing the risk of cancer. The $600,000 will be divided equally among the American Diabetes Association, the American Cancer Society, and the American Heart Association for research in nutrition, obesity, or physical fitness.

R.J. Reynolds Tobacco Co. agreed to settle charges that it made false and misleading advertising claims regarding the health effects of smoking. The complaint charged that Reynolds' "Of Cigarettes and Science," although in editorial format, was an advertisement that misrepresented the purpose and results of a scientific study, the Multiple Risk Factor Intervention Trial (MR FIT). In settling the case, Reynolds agreed not to misrepresent the purpose or results of the MR FIT study, or the results, design, purpose or content of any other scientific test or study in any discussion of cigarette smoking and chronic or acute health effects. The consent agreement is subject to final approval by the Commission.

Associated Mills was charged with having no basis for claiming that its Pollenex Bottled Water Maker Reverse Osmosis System could remove certain hazardous organic chemicals from tap water for a year. The company agreed to have substantiation for future similar claims. Coleco Industries agreed not to misrepresent the availability of its computer-related products. The company was charged with falsely claiming that additional modules for its "My Talking Computer" were available, when the modules were not yet for sale.

Alamo Rent-A-Car agreed to settle charges that its operators failed to disclose to consumers the existence and amount of airport surcharges and mandatory fuel charges when consumers inquire about possible rental of Alamo's vehicles. To settle similar charges, the Commission accepted a consent agreement with General Rent-A-Car. The company was also charged with failing to inform consumers of the car models they are renting even though, under General's vehicle classification system, consumer could receive a smaller automobile than expected. General agreed to disclose orally all mandatory charges to every consumer who inquiries about its prices, and to disclose to consumers the car models they would receive under the car size classification the consumer selects.

The Commission gave final approval to a consent agreement with JS&A Group, and its president and owner, Joseph Sugarman. The consent order prohibits the company from claiming that its program-length ad for sunglasses, called BluBlockers, is an investigative consumer program that conducted an objective investigation of the sunglasses the company sells. The order also prohibits JS&A from misrepresenting that any paid advertisement is an independent consumer or news program.

Two additional consent agreements were accepted by the Commission. An-Mar International, makers of Solar Gold suntanning devices, agreed to settle charges it falsely advertised that its products provided health benefits and that consumer did not risk harmful side effects, such as skin cancer. The consent agreement prohibits the company from misrepresenting the safety of its products. Body By Design, a Boston health club, was charged with falsely claiming that its electric muscle stimulation treatments produced the same effects as exercises. Under the consent agreement, accepted subject to final approval, the club and owners agreed not to misrepresent any fitness program.

The Commission issued three administrative complaints in advertising cases. Campbell Soup Co. is charged with making deceptive and unsubstantiated claims in advertisements for its soups. According to the complaint, the ads link the low fat, low cholesterol content of its soups with a reduced risk of some forms of heart disease, but fail to disclose that the soups are high in sodium and that diets high in sodium may increase the risk of heart disease.

The Commission charged Revlon and a subsidiary with making unsubstantiated claims about the effectiveness of its Ultima II ProCollagen Anti-cellulite body complex. According to the Commission's complaint, Revlon does not have a reasonable basis for its claims that the product significantly reduces cellulite and reduces the skin's bumpy texture, ripples, or slackness caused by cellulite, that its product helps to disperse toxins and excess water from areas where cellulite appears and increases sub-skin tissue strength and tone.

Schering, a subsidiary of Schering-Plough Corp., a major national pharmaceutical manufacturer, is charged with making deceptive and unsubstantiated claims that its product, Fibre Trim, is an effective weight loss product and a high fiber supplement. The complaint alleges that Schering falsely claims that Fibre Trim is a high fiber supplement and the recommended daily dosage of Fibre Trim provides a significant portion of a person's daily requirements of dietary fiber. The complaint also alleges that the company did not have a reasonable basis for claims that Fibre Trim is an effective weight loss or maintenance product and provides the health benefits associated with a fiber-rich diet.

Complaints against two companies selling baldness cures were filed in federal district court. California Pacific Research was charged with falsely advertising "New Generation" baldness preventative and remedy. The court issued a preliminary injunction against the company. Pantron I was charged with falsely advertising that "Helsinki Formula" products will cure or prevent baldness. Both companies used various means of advertising, including 30-minute program-type television commercials that suggested that the performance claims were accurate and supported by scientific substantiation. The Commission requested that the court issue preliminary and permanent injunctions and order the defendants to pay refunds to consumers.

An Administrative Law Judge upheld charges that Kraft, Inc. falsely advertised that its Kraft Singles cheese slices contained as much calcium as five ounces of milk and contain more calcium than do most imitation slices. The ALJ ordered the company not to misrepresent the nutrient content of its individually wrapped slices of cheese in the future.

The Commission accepted an administrative law judge's finding that Norelco falsely advertised that its Clean Water Machine would make tap water clean or cleaner, when it knew that the machine added a potentially hazardous chemical to the water. The company is prohibited from misrepresenting the performance of the

Clean Water Machine or any other electric-powered consumer appliance.

The Commission ruled that Removatron International Corp., the largest maker of high-frequency, tweezer-type hair-removal devices, made false and deceptive claims that its devices permanently remove hair and lacked a reasonable basis for making such permanency claims. The Commission issued an order prohibiting the company from making unsubstantiated claims about its product and requiring it to possess clinical testing as substantiation for future permanency claims.

Comment was sought on proposed amendments to regulations under the Comprehensive Smokeless Tobacco Act of 1986. The Commission proposed deleting the exemption for utilitarian items, which are defined as "items that are sold or given ... to consumers for their personal use, that display the brand name, logo, or selling message of any smokeless tobacco product." The Commission is proposing a method for displaying the required health warning on utilitarian objects.

Credit Practices

Complaints filed in federal district courts resulted in $3,756,000 ordered returned to consumers and $360,000 in civil penalties paid to the U.S. Treasury. BankCard Travel Club has agreed to pay up to $2.5 million in consumer redress to settle charges that it deceptively billed customers for membership fees. In addition, one defendant, Lee Franklin, will pay $40,000 into the redress fund. The company and three individual defendants also agreed to permanent injunctions.

Action Credit Systems and five other defendants settled charges that they engaged in deceptive acts and practices in connection with the marketing and sale of credit repair service. Action Credit and two defendants are required to pay $1.2 million into a consumer redress fund. Miguel de la Campa agreed to pay $11,000 and Nathan S. Levy agreed to pay $5,000 for use as redress or disgorgement. The money paid by the defendants may be used to pay redress to consumers or, if redress is not feasible, may be paid directly to the U.S. Treasury. All defendants, except Mr. Levy, were permanently barred from selling or providing credit card procurement or credit improvement services, or from assisting others in doing so.

Two former officials of Credit-Rite, James Thomas Gray Sr. and Donald Gray, have agreed to settle charges that they misled consumers about the company's services. Under the consent decree, they are prohibited from misrepresenting their ability to improve consumers' credit bureau reports, and must honor any refund promises they make. As a result of an action brought by the New Jersey U.S. Attorney's office, both defendants were ordered to pay restitution, and James Thomas Gray was sentenced to serve a prison term.

Debt Collectors, Inc. was charged with illegally harassing consumers with threats of imminent court action, arrest, garnishment, incarceration, and deportation, with using obscene and profane language, and with threatening them with violence, in violation of the Fair Debt Collection Practices Act. The company agreed to enter into a consent decree and to pay $155,000 in civil penalties to settle charges.

Green Tree Acceptance, one of the country's largest companies financing mobile homes and recreational vehicles, agreed to pay $115,000 in civil penalties to settle charges it violated federal credit laws. The company was charged with discriminating against the elderly by requiring larger down payments from them. The consent decree also settled 1986 charges that the company did not tell consumers why they were denied credit, in violation of the disclosure requirements of Equal Credit Opportunity and Fair Credit Reporting Acts.

John Wanamaker Philadelphia, a department store, agreed to pay a $90,000 civil penalty to settle charges it illegally discriminated against some married women who applied for credit, in violation of the Equal Credit Opportunity Act. Wanamaker also agreed not to violate the Act in the future.

Creative Advertising Specialty House agreed to pay $5,000 in refunds to consumers. In addition, the company, which falsely represented $70 rubber dinghies as a "power motorboat" worth more than $1000 to consumers, agreed to a permanent injunction prohibiting them from engaging in direct mail or telemarketing solicitations that misrepresent the facts. The company also agreed not to debit consumers' credit card accounts unless specifically authorized to do so by consumers.

A complaint filed in federal district court charged Credit Repair with misleading consumers by falsely and deceptively claiming that it could substantially improve their credit records and by failing to honor its 100 percent money-back guarantee. The Commission requested that the court order defendants to pay consumer redress and to permanently prohibit them from the challenged practices.

American Credit Services was charged with misrepresenting its credit establishment and credit improvement services in a complaint filed in federal district court. The Commission is seeking a permanent injunction enjoining the company from such misrepresentations in the future and to obtain redress for consumers.

The Commission filed suit in federal district court alleging that Vacation Travel Club of America deceptively marketed their travel-related services at no charge as a prize or award, failed to provide refunds to consumers, made unauthorized credit card charges to consumers' accounts and violated the Truth-in-Lending Act. The Commission has asked for a temporary restraining order, preliminary and permanent injunctions and consumer redress.

The Commission accepted a consent agreement, subject to final approval, with Heilig-Meyers Co. settling charges the company understated its annual percentage rates to consumers in five states. Heilig offers installment contracts to finance the purchase of furniture that it sells. Under the agreement, Heilig agreed to calculate and disclose accurately the APRs that it discloses in connection with future extensions of consumer credit.

The Commission initiated a review of its Holder In Due Course Rule to determine what impact it has on small businesses. The Rule requires sellers to include specific language in sales contracts and loan agreements when consumers finance their purchases. The Commission also terminated a proceeding to amend the Holder Rule by extending it to cover third-party creditors.

The Commission staff issued its Commentary on the Fair Debt Collection Practices Act. The purpose of the commentary is to replace nearly 1,000 pages of informal staff interpretations. The Act regulates certain activities of debt collectors and prohibits a variety of unfair, deceptive, or abusive practices.

Service Industry Practices

Law enforcement actions taken under the Service Industry Practices program resulted in several orders being entered in federal district court, including judgements totaling over $12.7 million.

The Commission previously charged Federal Sterling Galleries with misrepresenting the authenticity and investment value of the Salvador Dali art work they offered for sale. In fiscal year 1989, a federal court granted the Commission's motion for summary judgement against the remaining individual defendant and issued an order for permanent injunction and $4.6 million in consumer redress. The order enjoins the defendant from future misrepresentations in connection with the sale of art work or any other investment offering.

In the case of Rainbow Enzymes, defendants Roy Standridge and Jimmy Standridge agreed to settle charges that they engaged in unfair and deceptive practices in connection with the recruitment of "licensed submanufacturers" to make an ingredient that was allegedly used to make a patented enzyme cleaner. Roy Standridge agreed to pay $20,000 into a consumer redress fund, and a company controlled by him paid in $70,000. Jimmy Standridge agreed to pay $25,000 in consumer redress. The settlements also contained injunctive relief against future misrepresentations.

Dr. Cecil B. Jacobson, who ran the Reproductive Genetic Center Ltd., agreed to settle charges that he misrepresented the likelihood that his patients would become pregnant as a result of his treatments and that women who underwent his infertility treatments had, in fact, become pregnant. Under a consent decree, Jacobson agreed to pay up to $250,000 in consumer redress and also agreed to a permanent injunction forbidding future misrepresentations relating to his infertility practices.

Rare Coins of Georgia, and three other defendants, agreed to pay $150,000 in consumer redress to settle charges they overstated the quality of coins they wholesaled to telemarketers for resale to the public for investments. The settlement also prohibits future misrepresentations about the value of coins and other investments they sell. The action against this supplier halted a nationwide fraud, potentially saving consumers millions of dollars.

A complaint was filed in federal district court charging Certified Rare Coin Galleries with deceptively marketing purportedly rare coins as low-risk, liquid, high-yield investments. The Court issued a temporary restraining order with an asset freeze and appointed a receiver for Certified.

Numismatic Certification Institute, and its principals, Steve Ivy and James Halperin, agreed to settle charges that its representations and failures to disclose information misled consumers as to the value of coins certified by the company. An affiliate, Heritage Capital Corporation, also agreed to settle charges that it provided substantial assistance to a coin retailer, Certified Rare Coin Galleries (CRCG), knowing that CRCG was misrepresenting the security and profit potential of its coins to investors. Under the settlement, defendants agreed to a permanent injunction, and Heritage and NCI agreed to contribute $1.2 million into a consumer redress plan for CRCG's customers.

Bruce M. Abrash, an officer of Numismatic Funding Corp., agreed to settle charges that he misrepresented the grade and investment value of silver coins he sold to consumers through telephone and mail order sales. A judgement was entered against Abrash in the amount of $125,000, plus a cash payment of approximately $20,000 from the liquidation of certain assets.

Nancy Murphy, an officer of Lynn Murphy & Co., settled charges that she engaged in unfair and deceptive acts in the sale of rare gold coins and silver and platinum bullion for investments. A complaint was filed against the company and three individual defendants in 1988. Mrs. Murphy agreed to an injunction, and also agreed to "fully cooperate" with the Commission in preparation for future trials and to testify if necessary.

A federal judge entered permanent injunctions against Lynn Murphy and Company, Lynn Murphy and Brad Kaye prohibiting them from misrepresenting gold and bullion investments. The court also awarded the Commission a judgement of $6.3 million to redress consumers who bought investments from the defendants. At present, the defendants have no known assets with which to satisfy the judgment.

A federal district court issued preliminary injunctions against Pannos Mining Co. and three other companies as a result of an action filed by the Commission. The defendants and four individuals were charged with a bogus investment scheme in which consumers were likely to lose their entire investment. Pannos Mining offered investors deferred delivery contracts for gold and silver at prices substantially below the current market price. The Commission is seeking permanent injunctions and redress for consumers who invested in the project.

The Commission charged Security Rare Coins, a New York firm that sells coins for investment, with misrepresenting the value and investment potential of its coins, overgrading them by at least one grade, and failing to honor its buy-back policy. The court issued a temporary restraining order and a limited asset freeze against Security and its president, James J. Duggan.

A complaint was filed in federal district court charging Uni-Vest Financial Services and five individual defendants with misrepresenting to consumers the risk of investing in precious metals they offered. The Commission also charged that the company failed to follow clients' instructions to sell, or not to sell, their investments. The Commission asked the court to issue a permanent injunction blocking future unfair or deceptive acts or practices and to order the defendants to pay refunds to consumers.

Continental Communications was charged with misleading potential investors in connection with its marketing of an application preparation service for the Federal Communications Commission's lottery of licenses to build and operate cellular telephone systems in Rural Service Areas. A federal court ordered the defendants to stop misrepresenting the investment potential of participating in the lottery. The court also froze defendants' assets in an attempt to secure refunds for consumers at the end of the court case, and appointed a temporary receiver to take over the corporate defendant.

The Commission filed a complaint in federal district court against Magui Publishers and Pierre Marcand charging them with supplying bogus Dali art prints to retailers throughout the United States and overseas. The Court issued a temporary restraining order stopping the challenged practices and also froze defendants' assets and appointed a temporary receiver.

A complaint was filed in federal district court charging Axiom III Corp. with marketing a bogus investment scheme in which consumers were likely to lose their entire investment. Axiom offered deferred delivery contracts for gold to investors across the country. The court issued a temporary restraining order against the company and the other defendants, and froze their assets. The court also appointed a temporary receiver for Axiom and the other companies charged in the complaint.

National Alliance of Brokers, a California Coin Dealer, was charged in federal district court with misrepresenting the value, liquidity, and investment potential of its coins, overgrading its coins, failing to deliver coins, and failing to honor its buy-back policy. The court granted a temporary restraining order, appointed a receiver, and froze the defendants' assets.

A federal court has sentenced Wayne Pedersen, a former official of Schoolhouse Coins, to three months in federal prison for criminal contempt of a court-ordered asset freeze. The Commission charged that Pedersen withdrew funds from a bank account, sold various properties, and otherwise violated the freeze order. Pedersen pled guilty to the charges.

The Commission issued the Ophthalmic Practices Rule prohibiting certain state restrictions on optometrists' commercial practices. The rule invalidates four kinds of state restrictions, including those that ban optometrists from having offices in shopping centers. The effective date of the Rule was set for September 1, 1989.

Other activities under the program included the disbursement of $2 million from the Alaska Land Leasing settlement fund to defrauded consumers. Several matters were in litigation during the fiscal year: Overseas Unlimited (the sale of job placement services), Security Rare Coin and Bullion (sale of rare coins), U.S. Oil and Gas (sale of services relating to the Bureau of Land Management lottery for oil and gas rights), and Austin Galleries (sale of art).

Consumer and Business Education

The Office of Consumer and Business Education plans and develops programs aimed at providing special information to consumers and industry on important Commission programs, statutes, rules, and decisions. The purpose of this effort is to encourage informed consumer choice and competitive business practice in the marketplace. The Commission sees the consumer and business education program as a cost-efficient way to gain compliance with the law.

During fiscal year 1989, the Office planned consumer/business education agendas for and with the five BCP divisions and ten regional offices. Topics were drawn from staff investigations that demonstrated marketplace problems and information needs. Approximately 20 new and revised consumer publications were developed and distributed, some jointly produced with other organizations. These topics included: car rental; choosing and using credit cards; dance studio contracts; home water treatment units; program-length commercials; vehicle repossessions; and a young adult's guide to credit cards.

The Office also developed three business booklets. One describes how business can implement its adverse action requirements in regard to the credit statutes. The two others, "How To Advertise Consumer Credit" and "How To Comply with the Used Car Rule," were revised to reflect changes in federal law or policy.

In addition, the Office contracted for two broadcast campaigns. One effort, will be done in conjunction with the American Association of Retired Persons (AARP), will be designed to help older consumers understand their range of housing options. The other will inform consumers about the importance of using sun screens and reading labels.

More than 2.5 million copies of the consumer and business publications were distributed through the Commission, the Consumer Information Center, and the associations and organizations with whom the Commission has worked, such as the AARP, The Alliance Against Fraud in Telemarketing, The Bankruptcy Coalition, and the Fabricare Institute. The Office has a 'Best Sellers' list with more than 100 consumer and business publications, including Spanish translations, from which consumers and businesses can order free materials.

Economic Support

During fiscal year 1989, the Bureau of Economics provided economic support to Consumer Protection casework and rulemakings. In addition, the Bureau began several studies of consumer related issues including: the effects of health claims advertising on consumption of fat and cholesterol; airline advertising; and the extent of consumer skepticism of those brands of food that fail to disclose nutrition information. Continued progress was made on older studies of mutual fund advertising regulation; railroad deregulation; and geographic banking restrictions. In addition, the Bureau completed work on several studies including: advertising of cigarettes, and occupational regulation. The Bureau released reports concerning: health claims in advertising of fiber cereals; health claims in advertising more generally; the impact of state price and entry regulation on intrastate long distance telephone rates; and local building codes.

FISCAL 1991 BUDGET REQUEST
(dollars in thousands)

Mission: **Consumer Protection**

Program Description	Fiscal 1990		Fiscal 1991		Change	
	Wkyrs	**Amount**	**Wkyrs**	**Amount**	**Wkyrs**	**Amount**
Enforcement	74	$4,104	74	$4,272	...	$168
Marketing Practices	77	4,410	80	4,756	3	346
Advertising Practices	66	3,836	70	4,216	4	380
Credit Practices	53	2,997	53	3,122	...	125
Service Industry Practices	55	3,376	58	3,681	3	305
Economic and Consumer Policy	4	228	4	235	...	7
Program Management	31	2,499	31	2,577	...	78
Total Direct Mission	360	21,450	370	22,859	10	1,409
Support Activities Allocation[1]	133	16,465	135	16,875	2	410
Total Mission	493	37,915	505	39,734	12	1,819

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[1] Included are the cost of support organizations plus space and equipment rents, telecommunications, postage, Federal Register printing, library materials and other overhead expenses.

PROGRAM SUMMARY

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MISSION CP	**PROGRAM NAME** ENFORCEMENT	**CODE** GEN	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

This program has two major aspects: one part concerns the enforcement of cease and desist orders that the Commission issues to stop unfair and deceptive practices, which is conducted by headquarters staff, and the other part concerns the enforcement of certain statutes and trade regulation rules, which is done by both headquarters and regional office staff. The Enforcement Division monitors and enforces the orders to ensure that previously found violations are corrected, and that consumers receive the restitution to which they are entitled. When staff finds significant order violations, the Commission generally recommends that the Department of Justice file an action for civil penalties, consumer redress, or other relief. The main goals of order enforcement are to promote a free and competitive market in which consumers can obtain and make use of truthful purchasing information and benefit from fair market practices.

The Enforcement program continues to seek cash reimbursement or product repair/replacement for consumers pursuant to recently issued orders. Especially prominent among restitution orders were land sales and automobile repairs, two of the most persistent problem areas for consumers. Two of the most successful actions have been the General Motors and Volkswagen cases, which provide thousands of car owners the opportunity to resolve their car problems through the National Council of Better Business Bureaus-sponsored mediation and arbitration program.

The other major aspect of this program is the enforcement of certain statutes and trade regulation rules, such as the Mail Order Rule, Used Car Rule, the Care Labeling Rule, the Fair Packaging and Labeling Act, the Appliance Labeling Rule, the R-Value Rule, the Octane Posting Rule, the Cooling-Off Rule, the Hobby Protection Act, the Unavailability Rule, and the Textile, Wool, and Fur Labeling Acts. These rules generally concern problems that arise when consumers cannot assess or compare the value of goods because they do not have essential information about the product, service or its delivery, e.g., goods that are not labeled or not labeled accurately as required and goods ordered through the mail. The goals of the rules portion of the program are to: (1) provide essential prepurchase information to consumers for making value comparisons of packaged and labeled commodities; and (2) prevent or redress economic injury to consumers resulting from failure to disclose material product information or misrepresenting information in violation of various rules.

Compliance with the requirements of these rules and statutes protects consumers and encourages fair competition. Enforcement actions generally require defendants to disclose material information to consumers, to pay civil penalties, and to provide for redress as appropriate, for injuries resulting from past purchases of insulation products, textiles, and purchases by mail or door-to-door sellers.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of this program as to order enforcement are to:

(1) promote and encourage business conduct in compliance with Commission orders;

(2) ensure that orders requiring consumer redress are fully implemented;

(3) remedy consumer loss and obtain civil penalties for order violations;

(4) monitor and advise the Commission of the enforceability of order provisions and effectiveness of our remedies; and

(5) alter, modify or set aside existing orders where there exist changed conditions of law or fact.

The major objectives of this program as to rules are to:

(1) provide consumers with essential information related to products or services so that consumers can make informed buying decisions;

(2) discourage deceptive or fraudulent sales tactics;

(3) reduce consumer search costs; and

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	74	4104
FISCAL 91	74	4272
CHANGE		+168
% CHANGE		4%

PROGRAM SUMMARY (Continued)			PAGE 2 of 2
MISSION CP	PROGRAM NAME ENFORCEMENT	CODE GEN	DATE 01/10/90

(4) discourage packaging and labeling techniques that cause consumers to make false value comparisons or care for products in a manner that might create damage.

Strategies to achieve these objectives include investigations, periodic compliance review, analysis of remedies and, when necessary, rulemaking amendment or exemption proceedings, civil penalties, injunctions, or consumer redress. Our strategies also include consumer education, interpretation and guidance for affected industries to encourage compliance, and coordination with Congress, other federal agencies and the states.

IMPACT STATEMENT

Under the funded resources, we will meet the established goals of the order enforcement program to: review and process initial and supplemental reports of order compliance; ensure all redress and third-party dispute resolution matters are in full compliance; process all petitions for order modifications; review all consumer protection proposed orders and pleadings; bring several civil penalty actions against respondents under order for serious violations; and review existing orders with the view of recommending modification or vacating of those provisions that no longer serve the purpose intended or constitute unnecessary compliance burden.

With regard to enforcement of rules and statutes, activity to meet statutory enforcement and reporting responsibilities will continue. Carryover enforcement investigations and litigation for civil penalties and/or consumer redress will continue under the Mail Order, R-Value, and Used Car Rules, as well as under other rules, as warranted. These resources will also permit us to monitor the industry to determine potential violators and to commence investigations where appropriate for other rules and statutes.

PROGRAM SUMMARY			PAGE 1 of 2
MISSION CP	PROGRAM NAME MARKETING PRACTICES	CODE GMP	DATE 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

Activity in this program is designed to identify, halt, and redress injury caused by unfair and deceptive practices in the marketing and sale of a variety of products and services to consumers and small businesses. The program also addresses the availability of warranty information to consumers prior to sale and the failure of warrantors to honor the warranty promises they make to consumers.

Marketing and sales problems include the purchase of worthless goods and services, or purchases that would not otherwise have been made based on oral and written misrepresentations or on failure to disclose material information during sales transactions. These practices occur in a variety of transactions where consumers do not make repeat purchases, lack adequate information, and have little opportunity to verify representations made by sellers. In addition, many sellers who engage in such practices move quickly from state to state or change corporate identities frequently, making corrective action by individual consumers unworkable.

This program also focuses on the market's failure to generate essential information about expensive consumer products or services, and "use-and-care" information which would permit owners to properly care for their products and to use them without risk of harm to health or safety.

Warranty performance problems consistently rank among the top areas of consumer complaints received by the Commission. Many of the complaints focus on the needed repair in major appliances, especially newly marketed products, and automobiles, although complaints are received on a wide variety of products. The cost of these repairs can amount to hundreds of millions of dollars each year. The high cost of warranty performance on expensive and infrequently purchased products may create an incentive to some firms to avoid performance on warranties or to perform warranty obligations inadequately. Because warranty performance disputes frequently may arise as a result of incomplete provision of warranty information to consumers, the program seeks to facilitate its dissemination.

Consumers frequently lack practical recourse in cases of breach of warranty. The high costs of securing legal assistance may preclude consumers from resorting to judicial remedies in all but the most extraordinary cases of warranty non-performance. Through its informal consumer dispute mechanism activity this program seeks to promote the use of efficient informal dispute resolution mechanisms outside the framework of the court system.

The goals of this program are to: reduce economic harm to consumers and small businesses arising from a variety of false and deceptive sales practices; where practicable, obtain redress for victims of fraud, deception, and misrepresentation; improve the availability to consumers of information that will enable them to make informed purchase, repair and maintenance decisions; enable consumers to minimize economic loss due to manufacturers' failure to disclose material information about their products; reduce the economic injury that occurs when warranty promises are not honored; facilitate the resolution of consumer product and housing disputes as quickly and fairly as possible; and facilitate informed consumer choice by making warranty information available to consumers prior to purchase.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of this program are to:

(1) prevent firms and individuals from using false and deceptive representations to market business opportunities, travel services, office supplies, computer-related equipment, health spa memberships and other goods and services, and reduce consumer losses by obtaining redress for those affected by such practices;

(2) ensure that firms provide consumers with that information about product characteristics and use which is essential to informed buying, maintenance and repair decisions, and reduce consumer losses by obtaining redress for those affected by such practices;

(3) ensure that the terms of warranties offered on most consumer products are in compliance with the standards set forth in the Magnuson-Moss Warranty Act, and that information about these warranty terms is available to consumers prior to sale in accordance with federal law and FTC rules;

(4) ensure that warranty promises made to consumers in housing and other major consumer purchases are performed in an adequate and timely manner; and

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	77	4410
FISCAL 91	80	4756
CHANGE	+3	+346
% CHANGE	4%	8%

PROGRAM SUMMARY (Continued)			PAGE 2 of 2
MISSION CP	PROGRAM NAME MARKETING PRACTICES	CODE GMP	DATE 01/10/90

(5) encourage the growth of programs designed to allow the fair and expeditious resolution of consumer product disputes through informal mechanisms that are outside the framework of the court systems.

Strategies to attain these objectives include investigations leading to federal court or administrative litigation; advisory opinions and other informal assistance to industry members; consumer and business education; coordination with other federal, state, and local agencies; and rulemaking proceedings to amend existing rules, if appropriate.

IMPACT STATEMENT

Staff will continue to work with NAAG, state and local law enforcement agencies, other federal law enforcement agencies, consumer organizations, and industry associations to identify fraudulent practices in the deceptive sales area including telemarketing fraud. Staff will seek to enjoin fraudulent acts and practices where injury to the public is ongoing, and will seek restitution or other relief for those affected by these practices. Funding will be available to complete litigation, if appropriate, of matters under investigation which involve significant loss to consumers. Funding will further be available to bring matters into court, and will permit the examination of investigative targets in the deceptive sales and product information areas.

Resources will be available to monitor compliance with the Informal Dispute Settlement Rule and to complete the ANPR process. Funding will also permit responses to requests for advice, interpretations and some consumer and industry education pertaining to the remaining Magnuson-Moss Warranty Act rules. Resources will be available to conduct industry and consumer education concerning the Pre-Sale Availability Rule, and the Guides Against Deceptive Advertising of Guarantees. Funding will permit the program to continue monitoring and enforcement activities of companies that do not honor their warranties.

Under the Franchise Rule, funding will permit continuation of carryover investigations and litigation, as well as initiation of enforcement actions as warranted, and the completion of the ANPR process. In addition, under the Funeral Rule, resources will permit monitoring of the funeral industry to determine potential violators and to commence investigations where appropriate.

An increase of three workyears and related dollars will fund new investigations and recommendations for law enforcement actions. The additional investigations will focus on hard-core fraud, other point of sale deceptions, and Franchise Rule violations. Consumer complaints and referrals from state and local law enforcement agencies have increased significantly in the areas of fraud and the sale of business opportunities. Additional resources are needed to handle the increasing demand for action against these fraudulent practices.

PROGRAM SUMMARY

			PAGE 1 of 1
MISSION CP	**PROGRAM NAME** ADVERTISING PRACTICES	**CODE** GAP	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

Advertising constitutes the single most significant source of information to consumers about products and services they wish to buy. Advertising indicates the availability of products and other performance characteristics. Objective advertising claims about a product, such as those relating to its performance, often affect purchase decisions. However, where such claims are not truthful or are misleading, they do not improve the information available to consumers to make purchase decisions. Moreover, untruthful or misleading advertising also undermines the benefits of advertising generally by compromising its credibility, thus injuring consumers and honest advertisers. The long-range mission of the advertising practices programs -- general advertising, tobacco advertising, food and drug advertising, and energy advertising -- is to ensure that advertising is truthful and non-misleading. In addition, the tobacco advertising program administers two federal statutes regulating the advertising and labeling of cigarettes and smokeless tobacco.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of this program are to:

(1) protect the informational benefits of advertising by helping to ensure that it is truthful and not misleading;

(2) reduce economic and physical injury to consumers caused by untruthful or misleading advertising;

(3) insure that Federally required health warnings are provided to purchasers of cigarettes and smokeless tobacco products.

The Commission's requirement that an advertiser possess a "reasonable basis" for objective claims before making these claims is one of its most important strategies for ensuring that advertising is truthful and not misleading. Other strategies include ad monitoring, consent orders, litigation, Section 5(m)(1)(B) actions, consumer education, and coordination with Congress, affected industries, consumer groups, the states, and other federal agencies. Staff utilizes the full range of Commission enforcement powers to implement all of the objectives of the program.

IMPACT STATEMENT

At the proposed funding level, ongoing investigation and law enforcement actions would be continued. The advertising monitoring activities also would be continued and selected follow-up new law enforcement actions would be initiated. Resources would continue to be devoted to specific program areas of longstanding Commission involvement. For example, staff would monitor children's advertising, advertising directed to the elderly, food advertising and advertising of health care products and services. Finally, the staff would continue its liaison with federal agencies (such as DOE, FDA, and EPA) and appropriate state officials.

The cigarette advertising program would continue to administer two federal statutes regulating the advertising and labeling of cigarettes and smokeless tobacco. Ongoing investigations and litigation would continue, and new enforcement actions would be initiated as appropriate.

An increase of four workyears in the Advertising Practices program will augment the activities of the program. In recent years, the total dollars industry has spent on advertising has grown dramatically. In addition, the number of broadcast outlets have increased, and many of these, such as cable and independent television stations, don't screen advertising as carefully as the networks. In order to respond to the growth in advertising, the program requires additional workyears and related dollars. With increased resources, priority will continue to be given to cases involving health claims for food and drug products. This will include cases involving cosmetic advertising and safety claims, such as those made by manufacturers of suntanning equipment. Another area of focus will be on marketing practices involving purely economic injury, such as deceptive car rental advertising, "program length" commercials, children's 900 story line numbers, unsubstantiated weight loss claims, and unsubstantiated therapeutic claims for cosmetic products.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	66	3836
FISCAL 91	70	4216
CHANGE	+4	+380
% CHANGE	6%	10%

PROGRAM SUMMARY			PAGE 1 of 2
MISSION CP	PROGRAM NAME CREDIT PRACTICES	CODE GCP	DATE 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

Credit has become an integral part of the American economic system. Few consumers purchase such major items as a house or a car for cash, and many now rely on credit to purchase everything from personal effects to a college education. The size of the consumer credit industry (629 billion dollars in outstanding consumer installment credit, not including residential mortgage loans) and its importance to both the economy and the individual have caused Congress and the Commission to be concerned about problems that arise in connection with the availability and terms of credit, the resolution of credit billing disputes, the privacy implications of maintaining consumer credit data banks, and the methods used by creditors and debt collectors to collect obligations in default. Consumers suffer economic loss when they are denied credit for unlawful reasons, such as sex, age or race. Consumer injury also occurs when consumers are subject to faulty computerized billing procedures, abusive collection tactics by creditors and debt collectors, or improper reporting of their credit histories.

The goals of this program are to reduce consumer injury by ensuring equal access to credit on the basis of individual merit, by requiring proper reporting of consumer credit information, by promoting price competition in the credit markets through the use of clear and simple credit cost disclosures, by preventing the use of unfair credit terms which restrict consumer rights and jeopardize their financial stability, and by preventing the use of deceptive collection procedures. A major component of the credit program is aimed at policing deceptive credit practices and determining if they cause serious consumer injury.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of this program are to:

(1) ensure that consumers have accurate and understandable disclosure of costs and conditions in credit, lease and debit transactions at the time of the transaction and in advertising;

(2) ensure that creditors evaluate credit applicants on the basis of their willingness and ability to repay without regard to unlawful discriminatory factors;

(3) ensure that consumer reporting agencies maintain adequate controls on the accuracy of their reports, avoid reporting obsolete information, restrict access to consumer information to appropriate parties with a lawful purpose, and provide consumers with a meaningful opportunity to correct erroneous information in their credit files;

(4) ensure that consumer credit contracts do not contain clauses that would prevent consumers from asserting their claims or defenses against the lender;

(5) ensure that creditors establish and follow statutory and Federal Reserve Board-prescribed procedures for resolving credit and debit billing disputes and that consumers are given meaningful notice of these procedures;

(6) ensure that independent debt collectors abstain from engaging in unfair and deceptive debt collection practices; and

(7) ensure that consumers are not victimized by unfair or deceptive financial services practices designed to defraud them.

The principal strategies for achieving these objectives include: enforcement actions seeking civil penalties, consumer redress, restitution, and injunctions to correct unlawful conduct; extensive educational efforts directed at industry and consumers to promote voluntary industry compliance and inform consumers of their rights provided under these statutes; cooperative efforts with state and local agencies; and cooperative efforts with other federal agencies to ensure consistent enforcement policy among all segments of the credit market.

IMPACT STATEMENT

Resources at this level would fund all carryover enforcement investigations, and existing industry and consumer education programs, and some new initiatives. In the General Credit area, resources would go to informal enforcement and formal investigations and cases, particularly concerning the Fair Debt

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	53	2997
FISCAL 91	53	3122
CHANGE		+125
% CHANGE		4%

PROGRAM SUMMARY (Continued)

			PAGE 2 of 2
MISSION CP	**PROGRAM NAME** CREDIT PRACTICES	**CODE** GCP	**DATE** 01/10/90

Collection Practices Act and Section 5 of the FTC Act, including investigations of alleged misleading or fraudulent claims by credit repair clinics and others promoting or offering easy credit, and of travel scam operators that defraud consumers. Under the Equal Credit Opportunity Act (ECOA), ongoing investigations and any resulting litigation, and monitoring of compliance by finance companies, credit card issuers, and mortgage lenders would continue. The major Truth in Lending matters would continue, including enforcement efforts involving advertising of automotive credit and home mortgages, unauthorized charges to consumers' open-end credit accounts, and our investigations concerning breach of mortgage loan commitments. Under the Fair Credit Reporting Act (FCRA), we would continue enforcement of the Act's requirements concerning consumer notification by creditors, and would conduct investigations regarding credit bureaus' compliance with FCRA requirements, where appropriate.

PROGRAM SUMMARY			**PAGE** 1 of 2
MISSION CP	**PROGRAM NAME** SERVICE INDUSTRY PRACTICES	**CODE** GSI	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

The delivery of professional services is often extensively regulated by both the states and the professions. Much of this regulation protects the public by protecting the quality of service. However, some regulations impose significant costs on consumers but provide little or no corresponding benefits. These regulations restrict competition, keep prices artificially high, and discourage innovation. Examples of possible unnecessary regulation include: (1) restrictions on business structures and forms of ownership of provider firms; (2) restrictions on price competition; (3) restrictions that unduly limit entry; and (4) restrictions that unduly limit the information that may be communicated to consumers.

When consumers are unable to judge the appropriate level of price and quality for goods and services they need, they may be exploited by sellers who use deceptive sales tactics or who withhold material information. For example, consumers annually spend hundreds of millions of dollars on alternatives to more traditional but relatively low yield investments. A significant part of the sales for some of these investment alternatives -- e.g., oil and gas leases, precious gemstones, rare coins and purported rare art works sold as investments -- may be based on fraud and misrepresentations. Another example can be found in the advertising for bogus medical procedures. Such ads may seem credible to certain consumers because the advertiser is a physician or other health care professional or because the consumer does not have the information necessary to evaluate the effectiveness of such procedures.

Although private product standards and seals of approval help to make our complex economic system function more efficiently, some standards may at times distort the market and result in more expensive, less efficient, unsafe, or unreliable products. These market distortions are thought to occur in areas involving energy consumption, hospital costs, construction costs, fire hazards, and workplace health and safety risks. In some cases the standards development process may have been manipulated by established firms at the expense of consumers or small, innovative producers.

The goals of this program are to facilitate informed consumer choice and increase the availability of less expensive, safe and reliable services and products that consumers desire; facilitate fair competitive opportunities for smaller manufacturers in the standards-setting process; and reduce consumer losses based on false or misleading information.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of this program are to:

(1) review public and private regulations that may cause artificially high prices and limit the availability of goods and services without providing corresponding consumer benefits;

(2) reduce consumer loss by reducing the extent to which false and misleading information is disseminated to prospective purchasers of investments and professional services;

(3) assist federal, state, and local governments as they consider the consumer and competitive effects of the use of standards and seals for regulatory and procurement purposes; and

(4) reduce consumer loss by reducing the extent to which the standards-making process is used by its participants to disadvantage competitors.

Strategies to obtain these objectives include consumer and industry education; consultation and coordination with Congress, the states, and other federal agencies; participation in federal and state agency proceedings, where appropriate; administrative and federal court litigation; and rulemaking, if appropriate.

IMPACT STATEMENT

Investigations will be conducted and cases brought challenging fraud in the advertising and promotion of the sale of health care diagnostic and treatment services. District court cases for injunctive relief and redress will be proposed to reduce the incidence of investment fraud and civil or criminal contempt proceedings will be proposed to deter violators of previously obtained orders. Redress will be obtained and distributed. An automated information system will be maintained and expanded to assist law

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	55	3376
FISCAL 91	58	3681
CHANGE	+3	+305
% CHANGE	5%	9%

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PROGRAM SUMMARY (Continued)			PAGE 2 of 2
MISSION CP	**PROGRAM NAME** SERVICE INDUSTRY PRACTICES	**CODE** GSI	**DATE** 01/10/90

enforcement efforts by the FTC, state attorneys general and other law enforcement agencies. Standards cases begun in fiscal 1990 will be pursued and completed as appropriate. Interventions on standards-related questions will proceed. Appropriate enforcement policies for the Ophthalmic Practices Rule and the Retail Food Store Rule, as amended, will be proposed and administered. Staff will assist in the dissemination of appropriate compliance guidelines and in the administration of an appropriate enforcement policy for the Funeral Rule.

An increase of three workyears in the Service Industry Practices program will impact the volume of investigations and cases that could be initiated. Increased workyears and program contracts will allow additional investment fraud and health fraud cases to be brought, and standards investigations to be initiated. Telemarketing fraud has become a serious problem costing consumers over a billion dollars a year. In response to this growing problem, the Commission has brought over eighty investigations of telemarketers and thirty three cases against alleged telemarketing frauds since 1982. In these cases the Commission obtained injunctions against companies having aggregate sales of over $628 million. Additional resources are needed to allow the program to further increase its efforts in this area of growing concern.

PROGRAM SUMMARY			PAGE 1 of 1
MISSION CP	**PROGRAM NAME** ECONOMIC AND CONSUMER POLICY ANALYSIS	**CODE** GES	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AND LONG-RANGE GOALS

Consumer protection policy has a significant economic impact upon consumer welfare. The development of sound policy requires a thorough understanding of the economics of consumer behavior, the economic effects of past or prospective government actions, and the economic characteristics of the industries or markets which are affected by such actions. Economists in the Bureau of Economics provide the Commission with the expertise required to assess the likely economic affects of alternative policy approaches to consumer protection. This expertise is provided in several ways: First, the program provides studies that describe the FTC's historical role in consumer protection enforcement and which directly examine the effects of FTC rules and cases on firms and consumers. Second, upon request, economists in this program provide analysis directly to the Commissioners on Part III matters in adjudication. Third, reports analyzing consumer protection and other governmental policies provide insight into problems can be remedied by government action.

The long range goal of the program is to provide the Commission, Congress, and other policymakers with economic analyses of the costs and benefits associated with consumer protection programs, and with government regulatory actions in general. In addition, the program analyzes problems faced by small business.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of the Economic and Consumer Policy Analysis Program are to:

1) increase our understanding of the situations in which consumer protection actions will enhance consumer welfare;

2) increase our knowledge about the effects of government regulations that affect consumers; and

3) advance our understanding about the special problems faced by small business.

To achieve the foregoing objectives, several related strategies will be employed. These strategies include: a) providing original analyses of the effects of the Commission's consumer protection enforcement and rulemaking activities; b) providing economic advice to the Commission in adjudicatory proceedings; c) conducting studies of the effects on consumers of various nontrade government regulations; d) distilling evidence currently available in the literature concerning the effects of Commission programs and other government regulatory activities related to the Commission's consumer protection mission; and e) reporting the results of our inquiries to the Commission, Congress, state representatives, and the public in the form of reports, testimony, invited commentary, and other appropriate means.

IMPACT STATEMENT

The requested level of activity will allow us to continue analyses of the effects of various case and rulemaking activities in the consumer protection mission. We will also be able to provide assistance to the Commission in adjudicatory matters as requested. In addition, we will continue a limited number of analyses of the effects on consumers of government regulation generally. As time allows, studies will be initiated concerning consumer information problems in health related areas and the role of standards, branding, advertising, and disclosure requirements in addressing those problems.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	4	228
FISCAL 91	4	235
CHANGE		+7
% CHANGE		3%

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PROGRAM SUMMARY			**PAGE** 1 of 2
MISSION CP	**PROGRAM NAME** PROGRAM MANAGEMENT	**CODE** GPM	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG RANGE GOALS

The Consumer Protection Mission has three major goals:

(1) removing private and public restrictions that unnecessarily limit the range of available goods and services;
(2) encouraging reliable information to reduce search costs and permit rational marketplace decisionmaking; and
(3) correcting practices that impede consumer choice in the marketplace.

Achieving these goals requires a thorough understanding of consumer and industry behavior. In addition, various analyses have been mandated by Congress. The Magnuson-Moss Act, Title II, requires that the total effect of any regulation be evaluated to determine whether it is in the public interest. The FTC Act amendments require preliminary and final regulatory analyses, and the Regulatory Flexibility Act requires reassessments of the impact of promulgated rules. This program ensures that Commission regulations deliver benefits that exceed their costs and perform in the most effective manner.

This program also provides administrative and managerial support to several hundred professional and clerical employees in 19 operating units, including the regional offices.

The management and administrative activities of the Mission are designed to improve the effectiveness and efficiency of its substantive programs and to increase staff productivity. These activities include:

(1) monitoring and reviewing all substantive initiatives;

(2) managing human resources, and providing administrative support to ensure that adequate resources are available; and

(3) managing headquarters and regional office consumer and business education resources and activities.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of this program as to regulatory analysis are to:

(1) integrate economic, consumer behavior, and marketing knowledge into investigations and adjudicative proceedings so that the cases pursued and remedies chosen yield the best possible results, augmenting market incentives, without unintended or adverse consequences;

(2) develop and manage impact evaluations to determine the actual effects of rules;

(3) develop and manage regulatory analyses to ensure that regulation costs are acceptable relative to the benefits.

The strategy to achieve these objectives requires a regulatory analysis team possessing diverse training and experience to provide support to each major effort, and develop and supervise impact evaluations.

The major objectives of this program as to administration and management are to:

(1) increase the effectiveness and responsiveness of the consumer protection program through reviewing the management, progress, and output of all substantive initiatives;

(2) ensure consistency of case work and programs through coordination between regional office and headquarters;

(3) conduct periodic reviews of the organization, workload, and productivity of operating units;

(4) integrate planning with program budgeting;

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	31	2499
FISCAL 91	31	2577
CHANGE		+78
% CHANGE		3%

PROGRAM SUMMARY (Continued)			PAGE 2 of 2
MISSION CP	PROGRAM NAME PROGRAM MANAGEMENT	CODE GPM	DATE 01/10/90

(5) provide administrative support to operating units;

(6) provide information about major Commission actions to consumer and business opinion leaders to assist them in informing their constituencies; and

(7) provide information about major Commission actions to consumers and business owners so that they can make informed choices.

IMPACT STATEMENT

Funding allows for the continuation of all activities in this program, including: continuing economic and legal analyses of all major Consumer Protection Mission actions; studying the impact of Consumer Protection Mission actions on the marketplace; and managing and administering consumer and business education efforts and substantive law enforcement activities.

FISCAL 1991 BUDGET REQUEST
(dollars in thousands)

Mission: **Support Activities***

Program Description	Fiscal 1990		Fiscal 1991		Change	
	Wkyrs	Amount	Wkyrs	Amount	Wkyrs	Amount
Commissioners	40	$2,601	40	$2,769	...	$168
Executive Director	9	703	9	759	...	56
Office of Public Affairs	6	452	6	470	...	18
Office of Congressional Relations	3	168	3	175	...	7
Office of Consumer & Competition Advocacy	4	280	4	292	...	12
General Counsel	39	2,649	40	2,866	1	217
Office of Inspector General	2	225	2	239	...	14
Administrative Law Judges	6	475	6	495	...	20
Office of the Secretary	14	588	14	622	...	34
Management Services	77	3,403	77	3,521	...	118
Planning and Information	57	4,096	59	4,310	2	214
Total	257	15,640	260	16,518	3	878

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* The resources shown for these organizations have been included in the Maintaining Competition and Consumer Protection mission justifications.

PROGRAM SUMMARY

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MISSION SUPPORT	**PROGRAM NAME** COMMISSIONERS	**CODE** Q01	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

The Commissioners are responsible for ensuring that the agency effectively and efficiently executes its Congressionally mandated responsibilities. They formulate agency policy, thereby guiding and directing the work of staff, determine the type and extent of action that should be taken, allocate the resources required to implement courses of action and monitor the agency's progress in accomplishing stated goals. The long range goal of the Commissioners is to encourage free and fair market performance by fostering free competition and by ensuring honest activities in the marketplace.

MAJOR OBJECTIVES AND STRATEGIES

The Commission seeks to encourage free and fair competition by limiting or removing private and governmental restraints on the competition process; by correcting distortions in the market that inhibit the effective use of scarce consumer dollars; and, by ensuring that consumers are provided with accurate and useful information so that they can make informed purchasing decisions. The strategies to achieve these objectives may include issuance of complaints, acceptance of consent orders, promulgation of trade regulation rules, decisions in litigated matters, economic studies, consumer education, provision of information within areas of consumer expertise to other governmental policymakers, and industry guidance. The Commissioners implement these strategies through research, review, conduct of hearings, debate and formal decisions.

FISCAL 1991 PROGRAM SUMMARY

The fiscal 1991 activities of the Commissioners will be the same as in 1990.

a. Allocating and reviewing the use of FTC resourses;
b. Conducting liaison with Congress, federal, and state agencies, an others;
c. Reviewing staff proposals for investigations, use of compulsory process, complaints and trade regulation rules;
d: Promulgating trade regulation rules and guides and issue public reports;
e. Rendering advisory opinions concerning an applicant's proposed course of conduct;
f. Determining whether respondent's alleged courses of conduct violate existing statutes enforced by FTC; and
g. Determining whether proposed consent orders are in the public interest.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	40	2601
FISCAL 91	40	2769
CHANGE	0	168
% CHANGE	0%	6%

PROGRAM SUMMARY			PAGE 1 of 1
MISSION SUPPORT	PROGRAM NAME EXECUTIVE DIRECTOR	CODE Q01	DATE 01/17/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

The effective execution of the FTC's Congressionally mandated responsibilities requires central management to support timely development of Commission policy, oversee its implementation and ensure its integration in agency activities. The basic goal of the Office of the Executive Director is to provide the required policy development and implementation support to the FTC in all areas, and to provide effective management and administration support to Commission staff.

MAJOR OBJECTIVES AND STRATEGIES

1. Provide executive direction for the implementation of Commission policy.
2. Provide overall direction and evaluation of Commission programs with particular concern for resource planning and control through budget formulation and execution, program planning, management and organization analysis, evaluation of management information systems, human resource management, and administrative support services.
3. Carry out delegated authority to maintain and support equal opportunity goals throughout the Commission, including recruitment and development of minorities, women, the aged and the handicapped.
4. Insure that the FTC regional office structure is fully integrated into the agency's overall mission objectives and that resources are applied in the most effective manner.
5. Coordinate special programs (such as compilation of the annual report) which involve the joint action of the bureaus and offices.
6. Ensure that annual vulnerability assessments are conducted by responsible managers in accordance with OMB circular A-123.

IMPACT STATEMENT

The fiscal 1991 request provides the same level of effort as fiscal 1990.

1. Advising the Chairman, the Commission and organizations on development and on policy matters in the budget, management and administrative areas.
2. Ensuring administrative and managerial effectiveness of all organizations in the FTC, including policy coordination among the bureaus and regional offices.
3. Providing overall direction and evaluation to Commission programs which address resource planning and control, program planning, management and organization analysis, organizational evaluation, information systems, human resource management, EEO, and administrative services.
4. Providing management direction to regional offices and coordinating the planning and evaluation of regional administrative and enforcement activities.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	9	703
FISCAL 91	9	759
CHANGE	0	56
% CHANGE	0%	8%

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PROGRAM SUMMARY			**PAGE** 1 of 1
MISSION SUPPORT	**PROGRAM NAME** OFFICE OF PUBLIC AFFAIRS	**CODE** Q02	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

The Office of Public Affairs is responsible for informing the news media, business and professional interests, and the public at large about the operation of the Commission. OPA responds to media inquiries about Commission actions and policy and monitors print and broadcast news media for matters of interest to the Commission.

MAJOR OBJECTIVES AND STRATEGIES

This is achieved by (1) the preparation of concise and effective news releases, (2) the distribution of news releases selectively and efficiently to appropriate audiences, and (3) the provision of a central source for the news media to contact when seeking information on Commission actions.

The Office of Public Affairs also advises the Commission on how best to inform the public of FTC activities by counseling staff on appropriate news media and public interviews and advising them what issues are of interest to the news media.

IMPACT STATEMENT

At this workyear level the Office of Public Affairs will be able to perform these essential functions:

- produce releases on official actions of the Commission, including decisions by Administrative Law Judges;
- provide assistance and materials to media involved in covering Commission activities;
- produce "News Notes," a weekly document to inform members of the public who have requested to be kept apprisedof official Commission actions;
- produce the "Weekly Calendar and Sunshine Notices" to inform the public of scheduled Commission activities which they may wish to attend;
- produce "News Summary," a compilation of press clips on the FTC, for distribution to Commissioners and FTC staff, and work with the bureaus and regions in coordination of media coverage of their activities.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	6	452
FISCAL 91	6	470
CHANGE	0	18
% CHANGE	0	4%

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PROGRAM SUMMARY

			PAGE 1 of 1
MISSION SUPPORT	PROGRAM NAME OFFICE OF CONGRESSIONAL RELATIONS	CODE Q01	DATE 01/08/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

The Commission must work closely with the Congress in carrying out the Congressional legislative mandate and assisting Congress in exercising its oversight responsibilities. The Office of Congressional Relations provides a central source of information for individual members of Congress, Committees of Congress, and Congressional staff who have inquiries regarding proposed legislation, Commission activities, and individual constituent requests. The Office also advised the Commission on Congressional policies, procedures, interests, and pending legislative initiatives.

MAJOR OBJECTIVES AND STRATEGIES

The primary objectives of the Office are to (1) lead Commission dialogue with Congress, ensuring good relations with members of Congress and their staffs; and (2) promptly respond to Congressional requests for information on Commission activities and Commission policies or positions on antitrust and consumer protection issues. The Office coordinates agency responses to Congressional inquiries and coordinates staff testimony before the Congress. The Office also provides the Commission with current information on Congressional activities and proposed legislation that could affect the Commission's jurisdiction or programs.

IMPACT STATEMENT

Under this level of funding the Office will be able to conduct essential Congressional liaison activities. Congressional liaison functions conducted at this level would include:

1. Coordinating Commission input into the development of pertinent legislation by key Congressional committees, through liaison with key staff;

2. Coordination of Commission appearances or testimony before Congressional committees;

3. Responding to verbal inquiries from Members of Congress or Congressional staff;

4. Assessing Congressional interest in key programs and providing advice to Commission staff. At this level, the Office will continue to perform "outreach" activities. Most verbal inquiries will continue to be directed to members of the Commission staff, rather than being answered by Office of Congressional Relations staff. Time spent on Capitol Hill in face-to-face liaison meetings to share information will be somewhat limited as more time must be devoted to handling the load of Congressional inquiry on routing matters.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	3	168
FISCAL 91	3	175
CHANGE	0	7
% CHANGE	0%	4%

PROGRAM SUMMARY			PAGE 1 of 1
MISSION SUPPORT	PROGRAM NAME CONSUMER AND COMPETITION ADVOCACY	CODE Q04	DATE 01/10/90

DESCRIPTION OF PROBLEM AREAS AND LONG-RANGE GOALS

The competition and consumer protection missions of the Commission seek to prevent or lessen consumer injury caused by private or governmental interference with the proper functioning of the market place. Growth in number and reach of laws and regulations have made various governmental entities important participants in the market economy. In many instances laws or regulations have injured consumers by restricting entry, protecting market power, chilling innovation, limiting competitive responses of firms, and wasting resources. These unfortunate results often occur because the interests of consumers are often not well represented in the regulatory process. The basic goal of the Office of Consumer and Competition Advocacy is to reduce such harm to consumers by informing appropriate governmental entities of the potential effects on consumers, both positive and negative, of proposed legislation or rule-making.

MAJOR OBJECTIVES AND STRATEGIES

The Office of Consumer and Competition Advocacy is the central Commission source of planning, coordination, review, and information for staff comments on proposed legislation and regulations. The primary objectives of this Office are to:

1. identify proposed legislation or regulations which may significantly benefit or harm consumers;
2. initiate staff analysis and discussion; and
3. assist in producing useful written or oral comments to appropriate governmental entities.

IMPACT STATEMENT

The level of funding proposed for fiscal 1991 is sufficient to meet the objectives mentioned above. The primary activities of this Office are to:

1. plan and direct programs for developing advocacy comments;
2. coordinate and assist staff in producing and reviewing advocacy comments;
3. facilitate Commission review and direction of the program and individual comments; and
4. serve as a central repository for information about the program and specific comments.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	4	280
FISCAL 91	4	292
CHANGE	0	12
% CHANGE	0	4%

PROGRAM SUMMARY			**PAGE** 1 of 1
MISSION SUPPORT	**PROGRAM NAME** OFFICE OF THE GENERAL COUNSEL	**CODE** T03	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

The General Counsel serves as the Commission's chief legal advisor. Responsibilities include conducting litigation when the Commission is a party to a federal court action; providing legal justification, support and defense of Commission policies and decisions; and advising the Commission on a wide range of legal and other issues. Also included are the supervision, preparation and review of agency communications and reports to the President and to Congress.

The long-range goal of the General Counsel is to give the Commission legal representation of the highest possible quality in its litigation, legal counseling, and administrative operations.

MAJOR OBJECTIVES AND STRATEGIES

The General Counsel's office is responsible for ensuring Commission compliance with all applicable statutes and rules by providing timely advice on the manner in which agency activities should be executed. The office further seeks to ensure that the views of the Commission are presented in court proceedings with the highest degree of professional acumen, both through direct representation of the Commission and through effective liaison with the Department of Justice.

IMPACT STATEMENT

An increase of one workyear is requested for fiscal 1991. The increase is necessary to support the expanded efforts of the Commission's enforcement bureaus.

Office of General Counsel: With this level of funding, the immediate Office of General Counsel will continue to manage OGC litigation responsibilities; advise the Commission and bureaus and offices on the most sensitive legal and policy issues; and serve as liaison with other federal agencies and private bar associations. Supervision and coordination will also be provided for the Commission's Federal-State liaison efforts.

Legal Counsel: This funding level will permit the office to meet all statutory requirements. Informal advice will be provided to staff on most matters; formal, written advice will be provided on significant issues. Timely responses to Commission directives will be provided. Assistance will be provided to individual Commissioners on adjudicative and other matters.

Litigation: This funding level will permit the office to pursue fully all "defense litigation" (*i.e.*, litigation in which the agency is sued and is obliged to defend itself). Examples of such litigation include suits for judicial review of orders to cease and desist and trade regulation rules; Freedom of Information suits; and suits to enjoin agency action. This office will also prosecute suits to secure information for use in Commission proceedings. It will advise the Commission with respect to proposed suits for injunctive relief under Section 13(b) of the FTC Act and handle the appellate phase of such cases. This office will also assist BC and BCP in the district court phase of suits for injunctive relief.

Ethics and Regulatory Affairs: At this level, the office will be able to respond to all statutory requirements and to provide oral or written answers to all requests from agency staff for advice.

RESOURCE SUMMARY	**WORK-YEARS**	**DOLLARS ($000)**
FISCAL 90	39	2649
FISCAL 91	40	2866
CHANGE	1	217
% CHANGE	3%	8%

PROGRAM SUMMARY

			PAGE 1 of 1
MISSION SUPPORT	PROGRAM NAME OFFICE OF INSPECTOR GENERAL	CODE Q06	DATE 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

The Office of Inspector General (OIG) was established in fiscal 1989 in accordance with P.L. 100-504. The OIG's long term goal is to prevent and detect fraud, waste and abuse in the agency programs and operations.

MAJOR OBJECTIVES AND STRATEGIES

The Office of Inspector General will:

1. Conduct and supervise audit and investigations relating to programs and operations of the FTC.
2. Provide leadership and coordination, and recommend policies for activities designed to promote economy, efficiency and effectiveness in the administration of agency programs and operations and to prevent and detect fraud and abuse.
3. Keep the agency head and Congress fully and currently informed about problems and deficiencies relating to the administration of such programs.

IMPACT STATEMENT

The fiscal 1991 activities of the Inspector General (IG) will be to:

1. Create an audit/investigative plan for execution in fiscal 1992.
2. Conclude any audits or investigations begun in the prior fiscal year.
3. Issue semiannual reports to the agency head and Congress in keeping with the reporting provisions contained in P.L. 100-504.
4. Participate, as the FTC representative, in PCIE and Coordinating Conference meetings.
5. Revise and/or create needed Memorandums of Understanding (MOU) to ensure that all needed resources and authorities are in place to effectively carry the mandates of the IG Act.
6. Establish all needed internal office operating procedures to ensure compliance with GAO standards.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	2	225
FISCAL 91	2	239
CHANGE	0	14
% CHANGE	0%	6%

PROGRAM SUMMARY

			PAGE 1 of 1
MISSION SUPPORT	**PROGRAM NAME** OFFICE OF ADMINISTRATIVE LAW JUDGES	**CODE** T05	**DATE** 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

Administrative Law Judges are officials to whom the Commission delegates its initial adjudicative fact-finding functions in conformity with applicable statutes, judicial precedent, Commission decision and the agency's rules of practice. When the Commission issues a complaint, and no consent settlement is reached, the matter, except in injunction proceedings before federal courts, is referred to the Office of Administrative Law Judges for assignment to an administrative law judge for trial. As the official presiding officer, an administrative law judge rules on virtually all matters arising in the course of the proceeding, including motions, discovery, other pretrial questions, procedural questions, and all issues arising during the trial and prepares and files an initial decision. Many of these cases involve large national corporations and pose complex issues which are often controversial and relate to difficult economic, technical and competitive questions, which significantly impact upon the public, the national economy and business relationships between corporations within important industries.

The Office of Administrative Law Judges is also responsible for conducting rulemaking proceedings on behalf of the Commission, including proceedings to rescind or amend existing rules. New programs are initiated upon the issuance of a Notice of Proposed Rulemaking by the Commission. Presiding Officers are appointed to individual rulemaking proceedings by the Chief Administrative Law Judge and are responsible for the orderly conduct of the proceeding in accordance with the Commission's Rules of Practice. A Presiding Officer is authorized to publish necessary notices for the orderly conduct of a proceeding, set the time and place for hearing unless otherwise prescribed by the Commission, impose reasonable time limits on oral presentations of witnesses, control cross-examination of witnesses, recommend issuance of compulsory process, dispose of motions relating to procedural and evidentiary matters and certifying ruling to the Commission, require that oral presentations be given under oath, designate group representatives to cross-examine witnesses, establish the time for filing written statements of rebuttal at the close of public hearings. The Presiding Officer also establishes the rulemaking record when the Notice of Proposed Rulemaking is published in the Federal Register. A recommended decision is made to the Commission, following publication of a staff report, based upon finding and conclusion as to all relevant and material evidence, and taking into account the report of the Commission's staff.

MAJOR OBJECTIVES AND STRATEGIES

1. All adjudicative cases referred to this office must be handled as efficiently and expeditiously as possible, consistent with a fair hearing, and no discretion is available with respect to continuing, discontinuing, altering, or in any way delaying the proceeding other than those normal delays involved in the actual trial process. The office has no authority to return cases to the Commission, but must try them as expeditiously as possible unless the Commission directs otherwise or withdraws the matter from adjudication. Cases are resolved through the conduct of hearings and the issuance of initial decisions.

2. Exercise effective control over the public hearing phase of the rulemaking proceedings, within the limits established by the Commission's Rules of Practice, to enable the participants to build a full and complete rulemaking record in each proceeding, thereby assuring a basis for informed consideration by the Commission prior to final action to be taken. Conduct all proceedings within the time frames established by the Commission. Prepare and submit reports based on the evidence contained in the rulemaking record of each proceeding in timely fashion, setting forth detailed and specific findings and conclusions and including a recommended decision.

IMPACT STATEMENT

The Office of Administrative Law Judges receives its workload assignments directly from the Commission as adjudicative complaints are issued and as new rulemaking proceedings are authorized and, as a consequence, does not directly establish or control workload levels. All matters referred to the office must be handled expeditiously. The level of funding of 6 workyears would permit the office to carry out its basic functions. The requested manpower level is unchanged from FY 90.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	6	475
FISCAL 91	6	495
CHANGE	0	20
% CHANGE	0	4%

PROGRAM SUMMARY			PAGE 1 of 2
MISSION SUPPORT	PROGRAM NAME OFFICE OF THE SECRETARY	CODE T04	DATE 01/10/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

The Office of the Secretary (OS) is the official custodian of the papers and records generated by the Commission. The Office performs three basic functions. The first is similar to that of the clerk of a court; that is, the Office receives all filings from the parties to proceedings before the Commission and issues and serves all official documents on the appropriate parties. The Office is also responsible for drafting and distributing official minutes recording all Commission deliberations and decisions, and for implementing the Commission's procedures for voting and decision making. The final mission of the Office of the Secretary is to oversee the prompt preparation of responses to routine correspondence and other inquiries from congressional offices.

The Office of the Secretary, with the assistance of the Automated Systems Division of the Executive Director's Office, is striving to eliminate outdated and cumbersome aspects of some of its computer systems for creating, storing and retrieving records, and ultimately to modernize completely all of its systems. The improvement of these systems requires intense effort on the part of a small staff, but the end result will be improved quality in the service of official documents and in record keeping in general. The Office also intends to provide computerized methods of performing accurate searches of historical data concerning Commission actions. Development and installation of these systems, as well as improvement of the operation of all systems currently used in the Office of the Secretary, are contingent upon receiving the necessary resource allocation from the Automated Systems Division.

The long-range goals of the Office of the Secretary are to:

- o Serve Commission documents, including all necessary papers and instructions, promptly to the appropriate parties;
- o Provide Commissioners with accurate and timely information about the status of assignments, circulations and votes in progress;
- o Provide accurate and timely guidance to the Commission, Commission staff, and outside parties on procedural issues;
- o Notify the Commission's staff promptly when the Commission has directed them to take particular actions, and monitor the status of the staff's response to those Commission directives;
- o Schedule oral arguments to be heard by the Commission on appeals from Initial Decisions of Administrative Law Judges, schedule open and closed meetings of the Commission, and issue appropriate notices of Commission meetings as required by the Government in the Sunshine Act;
- o Provide original records to the Records Branch of the Executive Director's Office for storage;
- o Convert all historical records of Commission action to a form accessible through computer terminals;
- o Develop and maintain a system for electronic storage and retrieval of all staff recommendations forwarded to the Commission, all documents issued by the Commission, and all filings before the Commission;
- o Work with the Automated Systems Division to complete efforts to reprogram the OSCAR system; and
- o Provide appropriate and timely responses to routine correspondence and other inquiries from congressional offices.

MAJOR OBJECTIVES AND STRATEGIES

- o Monitor, maintain and modify as appropriate the OSCAR and congressional correspondence computerized record keeping systems;
- o Enter historical data in the congressional correspondence and OSCAR systems;

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	14	588
FISCAL 91	14	622
CHANGE	0	34
% CHANGE	0%	6%

PROGRAM SUMMARY (Continued)			PAGE 2 of 2
MISSION SUPPORT	PROGRAM NAME OFFICE OF THE SECRETARY	CODE T04	DATE 01/10/90

- o Maintain current case status information in the OSCAR and MIS computerized systems, and current information on congressional inquiries in the congressional correspondence system, and establish procedures to assure quality control of the databases;
- o Maintain programs to train FTC personnel to access information about agency activity through computerized databases;
- o Respond promptly to congressional correspondence requesting information on FTC programs and policies.

IMPACT STATEMENT

The projected level of resources will allow the Office of the Secretary to:

- o Prepare minutes of Commission actions within 20 business days;
- o Serve all required official documents within five business days of Commission votes;
- o Serve and distribute documents in adjudicative and non-adjudicative matters within 48 to 96 hours;
- o Respond to congressional correspondence within an average of 20 business days from the date of receipt;
- o Provide OSCAR system training programs to be offered through the Information Center.

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PROGRAM SUMMARY

			PAGE 1 of 2
MISSION Support	**PROGRAM NAME** Management Services	**CODE** R01	**DATE** 01/09/90

DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

To help carry out the agency's responsibilities, a wide variety of management and support services must be provided. A central management organization is established to provide these critical services. This organization is also responsible for ensuring that when these services are provided, they comply with the requirements of various laws, regulations and executive orders. The long-range goal of this program is to deliver all required support services at the highest professional level as efficiently and effectively as possible.

MAJOR OBJECTIVES AND STRATEGIES

The major objectives of this program are detailed under sub-activities: Financial Management, Human Resource Management and Management of Procurement and General Services.

I. Financial Management

(1) To fulfill agency responsibilities regarding the formulation and execution of a budget that is: (a) responsive to Commission, OMB and Congressional guidance on resource utilization; (b) responsive to agency resource needs; and (c) coordinated with program planning and execution. (2) To process, record and report accurately and on a timely basis all financial transactions using an automated financial management system. (3) To administer a payroll and travel management program that is responsive to employee needs.

II. Human Resource Management

To maximize the efficiency and productivity of the agency's human resources through inter-related programs of (1) Personnel administration, including classifying positions, recruiting for and filling vacancies, reviewing promotions and other personnel actions; (2) Specialized recruitment programs tailored to the needs of the agency's substantive programs; (3) Organizational analyses to ensure that the agency's structure and its positions are designed effectively; (4) Employee, labor and management relations programs and career counseling services designed to assist employees and managers, and to provide appropriate counseling on a wide range of issues, including benefits, retirement, and the obligations and requirements of employees under civil service regulations; (5) Development of employee potential as a means of maintaining a highly skilled workforce, through a variety of training programs; (6) Equal opportunity and affirmative recruitment and development programs; (7) Workforce management and personnel management information systems.

III. Management of Procurement and General Services

(1) To produce effective contracts/purchase order documents with timeliness required to meet agency program needs and to ensure agency acquisition activities conform to Federal Acquisition Regulations; to provide controls to ensure proper performance as described by the contracted agreement; and to implement procedures to ensure FTC responsiveness to external reporting requirements and to procurement preference program goals agreed upon with the Small Business Administration. (2) To manage our space allocation in a manner that is responsive to the Presidential initiative to reduce the space-per-person without endangering operational effectiveness. (3) To develop and maintain asset management controls to ensure effective planning, acquisition, utilization and disposition of agency property and supplies. (4) To maintain an in-house reproduction/graphics capability to meet the highly specialized, time-critical and frequently sensitive requirements of the Commission in a cost-effective manner; to provide for additional reproduction support through the GPO when requirements are routine and/or exceed FTC capacity.

IMPACT STATEMENT

I. Financial Management

Budget work will be divided between: (a) recurring requirements of the budget process (i.e., responding to Commission, OMB, and Congressional schedules), and (b) analyzing resources and expenditures in anticipation of adjusting to changing condition. This level of funding would place a priority on meeting recurring budget requirements. Remaining budget resources would be allocated to analyzing trends and responding to ad hoc request for budget information.

Routine processing of payroll, travel and miscellaneous vouchers would be accomplished within

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	77	3403
FISCAL 91	77	3521
CHANGE	0	118
% CHANGE	0%	3%

PROGRAM SUMMARY (Continued)

			PAGE 2 of 2
MISSION Support	PROGRAM NAME Management Services	CODE R01	DATE 01/09/90

established guidelines. Travel and contract claims will be processed within 30 days to comply with the requirements of the Prompt Payment Act. Financial Integrity Act reporting will be performed in compliance with time frames contained in the act. Review of existing FMS will be conducted. Resource levels are adequate for maintaining the current system but will need to be enhanced if conversion to the new system is indicated.

II. Human Resource Management

The day-to-day personnel activities will be completed consistent with the Federal personnel regulations. We will continue to assist managers in filling all appropriate vacancies, by providing recruitment programs for attorneys, economists, and other positions. We will administer the affirmative recruitment programs in a fashion that will be adequate to meet our responsibility. We will continue to classify positions, audit promotions, and assist in developing position descriptions. We will have to rely on extensive information from operating bureaus to perform these functions. Position audits will be conducted on a limited basis. The operating bureaus will have to provide sufficient information to justify all promotions. This level will require that the conduct of most employee development and training programs be obtained from outside vendors. The Division will continue to provide information on available courses, and to work closely with operating bureaus to identify the most appropriate training. The Division will continue to provide professional support for agency-wide training programs from operating offices. The Division will continue to develop policy and provide guidance on incentive awards, and will administer agency-wide awards programs. At this level, we will develop and maintain effective employee, labor, and management relations programs designed to provide information, counseling, and technical assistance to employees and managers on a wide range of employee and managerial issues, including grievances and disciplinary and adverse actions. We will represent the agency in discussions and negotiations with headquarters unions, and provide some assistance to regional offices in responding to regional office unions. This level will permit the Division to administer effective performance management systems. Finally, we will convert to a new personnel management information system.

III. Procurement and General Services

Efforts include the full range of contracting activity such as (1) solicitation of technical and cost proposals, which includes writing a synopsis for the Commerce Business Daily, issuing requests for proposals and invitations for bids, and using small purchase procedures, etc.; (2) design of the contract document to preserve the Federal Trade Commission interest; (3) provision for adequate controls through effective specification description; and (4) contract administration which requires the office to monitor contract compliance and to ensure proper disposition of closed contracts.

This year's program will continue activities required to provided space and property management, personnel and physical security, occupational safety, reproduction, and general support services. Emphasis will be placed on improving both the quality and cost effectiveness of these services.

PROGRAM SUMMARY			**PAGE** 1 of 4
MISSION Support	**PROGRAM NAME** Planning & Information	**CODE** R01	**DATE** 1-11-90

A. DESCRIPTION OF PROBLEM AREA AND LONG-RANGE GOALS

Information is an essential part of the FTC's work and the cost of performing information activities -- such as legal and economic research, and document preparation -- represents much of the Commission's "cost of doing business." In fact, most of the agency's employees are "information workers" who depend on effective access to and use of information in its many forms at the Commission, whether investigation evidence, legal documents and records, correspondence, publications, office records, or data bases, in paper, electronic or other form.

The overall goal of the Planning & Information program ("P&I program") is to provide the highest and best possible level of information resource skills, technology, and systems to support the Commission and its staff. The program is founded on the premise that effective management of agency information resources should be and is a key overall strategy of the Commission in achieving excellence in its antitrust and consumer protection missions; and it recognizes that given the critical importance and high cost of information activities to the agency, and the continuing budget challenges it faces, the agency simply cannot afford not to have an outstanding information management program.

The P&I program has six long-range objectives listed below. Implicit in each and the implementation strategies that accompany them is the need to integrate technology and information management practices into the FTC's business to sustain and improve staff productivity. The major challenge facing the P&I program today is balancing scarce resources to ensure the cost-effective management of existing investments (objectives 1 through 4) while continuing to improve and add to the existing technological base as FTC priorities and needs dictate (objective 5). To deal with and overcome this challenge, major emphasis will be placed on active user involvement in planning and carrying out the program (objective 6).

B. MAJOR OBJECTIVES & STRATEGIES

Objective 1: Maximize effectiveness with which staff use existing information resources.

Major Implementation Strategies:

1.1 Identify the needs and requirements of FTC users and match needs to existing information resources.

1.2 Maximize staff awareness of the value of applicable information resources.

1.3 Maximize skills and abilities of staff to use appropriate information resources effectively in their work.

1.4 Provide research and technical assistance, training and consulting services to users to promote and support continued use of available information resources.

1.5 Provide a comprehensive Commission-wide training program on the use of FTC research services, including internal and external databases and FTC-supported software and equipment.

Objective 2: Maintain existing information bases and information resources at a high quality (accuracy, timeliness, currency, etc.) to support mission and support activities.

Major Implementation Strategies:

2.1 Maintain the quality of existing information to ensure that it continues to support user requirements.

2.2 Maintain existing information resources in proper working order.

2.3 Maintain and enhance security procedures to ensure high-quality, reliability and appropriate confidentiality of all information managed by FTC.

RESOURCE SUMMARY	WORK-YEARS	DOLLARS ($000)
FISCAL 90	57	4096
FISCAL 91	59	4310
CHANGE	2	214
% CHANGE	4	5

PROGRAM SUMMARY (Continued)			PAGE 2 of 4
MISSION Support	**PROGRAM NAME** Planning & Information	**CODE** R01	**DATE** 1-11-90

2.4 Establish and maintain standards and procedures for using the FTC's internal information systems, research services and associated equipment and software.

Objective 3: Maintain and improve the efficiency and effectiveness with which information is disseminated to and among staff, other government organizations, and the public.

Major Implementation Strategies:

3.1 Maintain the program under which requests for access to Commission material are considered by administering the federal access statutes, including the Freedom of Information and Privacy Acts.

3.2 Provide consumers and businesses with timely assistance and appropriate information and materials in response to complaints and inquiries to aid in the resolution of disputes.

3.3 Facilitate the sharing and dissemination of documents, publications and other Commission-generated information among staff and to the public, as appropriate.

3.4 Maintain library facilities to provide research and information services to FTC staff and the public.

Objective 4: Maintain an aggressive program to control and minimize the costs associated with meeting the FTC's information requirements.

Major Implementation Strategies:

4.1 Maximize and support the appropriate user responsibility for learning to use, developing and managing information resources.

4.2 Develop and maintain standards that minimize the number of different technologies that have to be integrated and managed.

4.3 Maximize the sharing of information resources among offices and programs.

4.4 Develop and maintain standards to minimize the costs associated with maintenance of information resources.

4.5 Provide consulting services to Commission organizations to review and advise on the cost-effectiveness of end-user developed information processing tools and information bases.

4.6 Increase the sharing of information, applications and technical assistance with other agencies having similar functions or providing similar services.

4.7 Maintain an active asset management program for all information resources used at the FTC.

4.8 Actively investigate and pursue opportunities for improving the efficiency with which information systems are developed and maintained, including effective use of system development tools, such as computer-aided software engineering (CASE), and migration to new computer system environments that require less resources to develop and maintain information systems.

Objective 5: Develop and maintain new information management tools and information sources to meet the requirements of various users.

Major Implementation Strategies:

5.1 Improve and develop information management capabilities that are critical to supporting the mission programs of the FTC, with particular emphasis on text processing and records management requirements of these programs.

5.2 Improve existing information processing, publishing and product dissemination capabilities and develop additional capabilities that meet common management and administrative needs.

5.3 Develop and improve the integration of the various information processing capabilities installed at the FTC.

5.4 Monitor the marketplace to stay abreast of new offerings that would reduce operating costs, improve service and support to users, and further leverage the value of existing investments.

PROGRAM SUMMARY (Continued)

			PAGE 3 of 4
MISSION Support	**PROGRAM NAME** Planning & Information	**CODE** R01	**DATE** 1-11-90

5.5 Improve the flexibility users have in controlling distribution and format (hard copy vs. electronic copy) of Commission information bases, documents and publications.

5.6 Provide consultation on, and access to, external resources and databases that are not currently available at the FTC.

Objective 6: Maintain an effective planning process for directing and coordinating the Commission's Planning and Information program.

Major Implementation Strategies:

6.1 Maximize sustained FTC user community involvement in planning the P&I program.

6.2 Work with Commission organizations to assure that information management requirements are being identified and supported in cost-effective ways.

6.3 Ensure that Planning and Information program priorities reflect the priorities of the Commission's missions.

6.4 Work with Commission organizations to identify opportunities for their contribution to capital investments in technology that have significant benefit/cost ratios.

6.5 Develop and obtain management approval for a long-term information management budget which assures appropriate funding for productivity-enhancing investments in technology.

C. IMPACT STATEMENT

Responsibility for coordinating and implementing the P&I program is in large part centralized in the three P&I divisions of the Office of Executive Director: Information Services Division; Library; and Automated Systems Division.

Information Services Division ("ISD")

ISD provides services that support the efficient organization and maintenance of information by coordinating and, in many instances, performing procedures for capturing, storing, retrieving, and disseminating information within the Commission and to the public.

Funding and staffing at the proposed levels will not be adequate for ISD to pursue important opportunities for stimulating broader and more effective use of electronic information systems at the Commission, but they will generally permit ISD to maintain current services. Specifically, ISD will meet its minimum responsibilities under Planning and Information Objectives 1, 2, 3, 4, and 6. Although no increase in funding is provided, ISD will assume an even greater role in the development and maintenance of new information sources and tools, Objective 5. Highest priority will be given to complying with statutory requirements of the Freedom of Information and Privacy Acts. Management of the Commission's information will continue to be an important part of ISD's efforts, but work will be directed to maintaining existing projects. The Public Reference and Correspondence Units will continue to respond, within established time frames, to complaints and inquiries from the public and to provide information and documents that outline the rights and responsibilities of both businesses and consumers.

Library

The Library serves as an information research and training center for the agency. It provides resource materials and research assistance to the agency on legal, economic, and general subjects using a variety of internal and external information sources and systems. The Library also trains and assists FTC staff through the Information Center in using the Commission's standard electronic workstations and related software, and in accessing and using a number of internal and external computer information systems.

Funding at the current level will be adequate to meet the Commission's needs for basic Library and Information Center services, training and user support. Ongoing restraint will be required in the purchasing of subscriptions by all organizations, and careful monitoring of staff use of electronic information retrieval systems, such as WESTLAW and LEXIS, will be required to stay within planned funding levels.

Automated Systems Division ("ASD")

PROGRAM SUMMARY (Continued)			**PAGE** 4 of 4
MISSION Support	**PROGRAM NAME** Planning & Information	**CODE** R01	**DATE** 1-11-90

ASD provides the Commission and its staff with a wide range of automated systems support, including office automation, data processing, and voice and data communications systems services. The Division assists Commission organizations in defining needs, developing solutions using appropriate technologies and procedures, and maintaining new and existing systems.

The proposed level of funding will be adequate for ASD to continue to improve the effectiveness with which staff use and ASD manages existing information resources (goals 1, 5 and 6): and to maintain and make minor enhancements to existing information bases and Commission-wide application systems (goals 2 and 3). Highest priority efforts will be sustained to enhance existing office automation capabilities and Commission-wide information systems, and to support litigation and investigation activities.

Proposed funding will not be fully adequate to support what should be ongoing improvements to important Commission information systems, including, for example: major upgrade or conversion of the agency's central computer systems to a possible new hardware and software "platform;" local networking and improved "wide area" communications for Regional Office computers; systematic replacement of old or obsolete pc now in use; and improved networking and communication speeds for pc's in Washington offices. Analysis of the Commission's longer-range information system requirements continue to suggest that significant improvements would be desirable and cost-effective, but additional or supplemental funding and additional workyears will be required if the Commission is to pursue such options in fiscal 1991 and beyond.

FEDERAL TRADE COMMISSION
SUMMARY OF REQUIREMENTS[1]
(dollars in thousands)

Adjustments to base and built-in changes

	Wkyrs	Amount
1990 Appropriation	700	$54,580
o Sequestration	...	-704
1990 Appropriation (Adjusted)	700	53,876
1990 Fee Collection	250	20,000
o Sequestration	...	-260
1990 Program Level	950	73,616
o Compensation Increases	...	2,704
o Rental Payments to GSA	...	410
o Other Adjustments to Base	...	-631
Base for 1991	950	76,099

Mission	1989 Actual[2]		1990[2] Appropriation		1990[2] Base for 1991		1991 Estimate[2]		Program Change	
	Wkyrs	Amount	Wkyrs	Amount	Wkyrs	Amount	Wkyrs	Amount	Wkyrs	Amount
Maintaining Competition	403	$30,815	457	$35,701	457	$36,895	465	$37,256	8	$361
Consumer Protection	491	35,428	493	37,915	493	39,204	505	39,734	12	530
Total[3]	894	66,243	950	73,616	950	76,099	970	76,990	20	891
Budget Authority	894	$66,243	700	$53,876	700	$56,099	720	$56,990	20	$891
Fee Income	...	...	250	19,740	250	20,000	250	20,000	...	...
Total	894	66,243	950	73,616	950	76,099	970	76,990	20	891

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[1] This analysis is based on program level and includes both appropriated funds and fee income to represent the full FTC program requirement.

[2] Included for all three fiscal years are 7 workyears for building maintenance services. The dollars to fund these workyears are provided by the General Services Administration through an allocation arrangement and are not included in our appropriation figures.

[3] This analysis excludes 24 workyears and $1,547,000 proposed for transfer to the FTC from "sunsetting" of the ICC. The ICC activities being proposed for transfer deal with consumer protection matters in the household moving industry.

FEDERAL TRADE COMMISSION
OBJECT CLASS ANALYSIS
(dollars in thousands)

Object Class	Fiscal 1990	Fiscal 1991	Change + or -
Personnel Compensation and Benefits (Net).............	$53,728	$57,323	$3,595
Space Rental and Reimbursable Service Payments to GSA..	9,420	9,830	410
Other Objects...	10,468	9,837	-631
Total...	73,616	76,990	3,374

Explanation of Change by Object Class

Personnel Compensation and Benefits - This net increase of $3,595 reflects a program increase to support 20 workyears ($891) annualization of the January, 1990 pay raise ($487), Federal Employee Retirement System increases ($306), merit pay increases for GM and GS employees ($363), health benefit increases ($325), increases in workmans compensation ($20), one extra compensable day ($193), Executive/SES 1991 pay increase ($307), a 3.5% 1991 general pay increase ($733), and, a decrease in severance pay (-$30). Funding for the 1991 pay increases are at 50 percent of cost.

Rental Payments to GSA - This 4.4 percent increase of $410 represents the General Services Administration (GSA) charges for the space the agency will occupy in fiscal 1991. Total occupied space remains the same in both fiscal 1990 and 1991.

Other Objects - The decrease of ($631) represents an estimated savings of $300 in Federal telecommunications System (FTS) changes under the FTS 2000 contract and a decrease of $331 in ADP equipment purchases.

FEDERAL TRADE COMMISSION
APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; [$54,580,000: Provided, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (not withstanding section 20(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980, Public Law 96-252; 94 Stat. 374.] $56,990,000: Provided, That fees collected in fiscal year 1991 and thereafter by the Federal Trade Commission pursuant to section 605 of Public Law 101-162 that are in excess of $40,000,000 for any fiscal year shall be deposited to the credit of the Treasury of the United States: Provided further, That fees made available to this appropriation in fiscal year 1991, pursuant to said statute, shall remain available until expended. (Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act, 1990; additional authorizing legislation has been proposed.)

Note 1: Material in brackets is proposed for deletion in fiscal 1991.

Note 2: $40,000,000 in fees is to be divided between the FTC and Department of Justice.

GENERAL PROVISIONS

Section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, is amended by adding the following provision at the end thereof: Provided further, that fees made available to the Commission and the Department herein shall remain available until expended.

Note: This language amends the fiscal 1990 appropriations act for the Department of Justice and the Federal Trade Commission. The 1990 appropriations act established a filing fee for Hart-Scott-Rodino pre-merger reviews. Each account's appropriation was reduced $15 million below the President's request with the exception that the difference would be made up by receipts from the new fee. This proposed supplemental language change would make the fees available until expended. This is necessary so that fees collected late in the fiscal year will not expire before the agencies are able to obligate them.

FEDERAL TRADE COMMISSION
PROGRAM AND FINANCING
(dollars in thousands)

	1989 Actual	1990 Estimate	1991 Estimate
Program by Activities:			
Direct program:			
Maintaining Competition	30,815	15,824	17,256
Consumer Protection	34,428	38,052	39,734
Total direct program	66,243	53,876	56,990
Reimbursable program	314	19,840	20,100
10.00 Total obligations	66,557	73,716	77,090
Financing:			
Offsetting collections from:			
11.00 Federal Funds	-314	-100	-100
14.00 Non-Federal Sources[1]	...	-20,000	-20,000
27.00 Reduction Pursuant To P.L.99-177 in resources derived from offsetting collections	...	260	...
39.00 Budget Authority	66,243	53,876	56,990
Budget Authority:			
40.00 Appropriation	66,243	54,580	56,990
40.00 Reduction Pursuant To P.L.99-177	...	-704	...
43.00 **Appropriation (Adjusted)**	66,243	53,876	56,990
Relation of Obligations to Outlays:			
71.00 Obligation incurred, net	66,243	53,616	56,990
72.40 Obligated balance, start of year	4,431	5,623	3,877
74.40 Obligated balance, end of year	-5,623	-3,877	-3,011
90.00 Outlays	65,051	55,362	57,856

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[1] Represents fee income.

FEDERAL TRADE COMMISSION
OBJECT CLASSIFICATION[1]
(dollars in thousands)

		1989 Actual	1990 Estimate	1991 Estimate
Program Obligations:				
Personnel Compensation:				
11.1	Full-time permanent	38,577	42,183	44,612
11.3	Other than full-time permanent	1,863	2,400	2,432
11.5	Other personnel compensation	*750	869	881
11.8	Special personal services payments	4	5	5
11.9	Total personnel compensation	41,194	45,457	47,930
12.1	Personnel benefits: Civilian	6,698	8,117	9,269
13.0	Benefits for former personnel	461	154	124
21.0	Travel and transportation of persons	806	1,079	1,079
22.0	Transportation of things	109	111	111
23.1	Rental Payments to GSA	8,804	9,012	9,422
23.3	Communications, utilities, and miscellaneous charges	2,036	2,223	1,923
24.0	Printing and reproduction	414	419	419
25.0	Other services	3,708	4,579	4,579
26.0	Supplies and materials	910	925	925
31.0	Equipment	1,084	1,540	1,209
42.0	Insurance claims and indemnities	19	...	...
99.0	Subtotal, direct obligations	66,243	73,616	76,990
99.0	**Reimbursable obligations**	314	100	100
99.9	Total obligations	66,557	73,716	77,090

Personnel Summary

	1989 Actual	1990 Estimate	1991 Estimate
Total number of full-time permanent positions	860	899	919
Total compensable workyears:			
Full-time equivalent employment	894	950	970
Full-time equivalent of overtime and holiday hours	4	4	4

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[1] This analysis is based on program level and includes both appropriated funds and fee income to represent the full FTC program requirement.

ACTIVITIES TRANSFERRED FROM SALARIES AND EXPENSES
INTERSTATE COMMERCE COMMISSION
(PROPOSED FOR LATER TRANSMITTAL, PROPOSED LEGISLATION)
PROGRAM AND FINANCING

(dollars in thousands)

		1989 Actual	1990 Estimate	1991 Estimate
Program by Activities:				
10.00	Total obligations	...	...	1547
Financing:				
40.00	Budget Authority (Appropriation)	...	...	1547

		1989 Actual	1990 Estimate	1991 Estimate
Relation of Obligations to Outlays:				
71.00	Obligation incurred, net	...	...	1547
74.40	Obligated balance, end of year	...	...	-31
90.00	Outlays	...	...	1516

FEDERAL TRADE COMMISSION
CONSULTING SERVICES
($000)

This exhibit provides budget information on consulting services in compliance with section 1114 of Title 31 of the U.S. Code.

Part A:

	OBLIGATIONS		
	1989 ACTUAL[1]	1990 EST.	1991 EST.
Personnel Appointments	$102	252	256
Contracts	664	1,037	1,037
Total	766	1,289	1,293

The Salaries and Expense appropriation for the FTC funds these consultant services.

The majority of expenditures provide direct support of Commission investigation and litigation efforts. These expenditures purchase expert legal and economic analysis of complex antitrust and consumer protection issues. Reduction of these expenditures would lessen the quality of case analysis and reduce the pace of Commission investigations. Most of these expenditures occur in the programs under the Commission's Maintaining Competition and Consumer Protection missions.

Part B:

The evaluation by the Inspector General of the consultant services management controls and reporting to the Federal Procurement Data System will be submitted separately.

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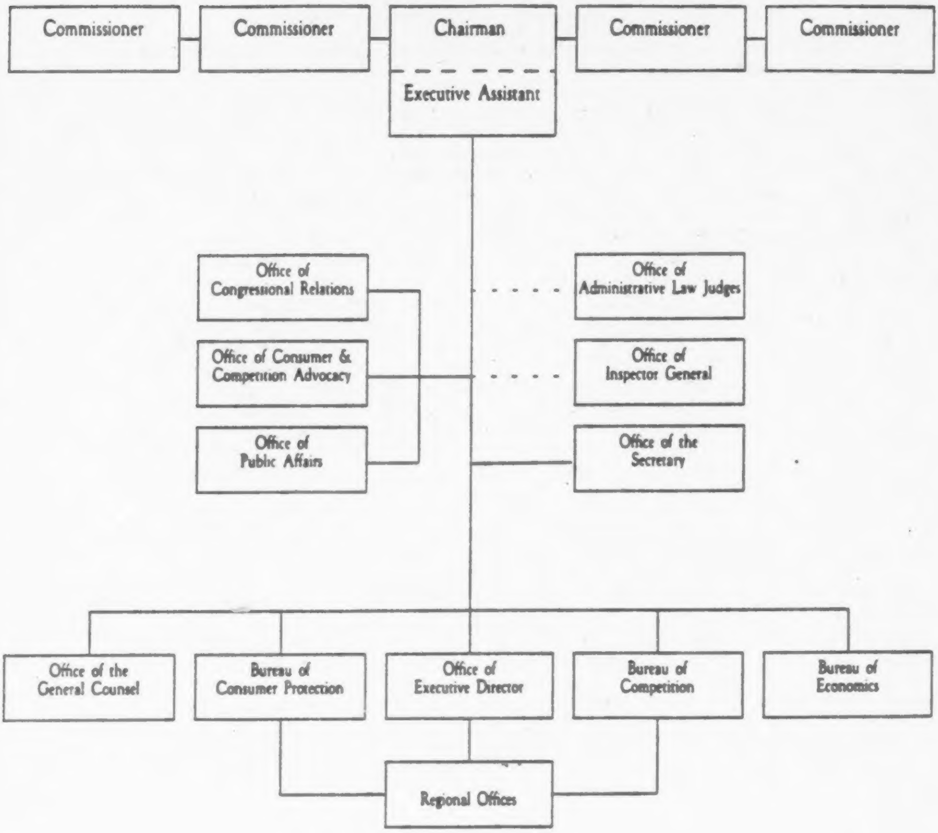
[1] Temporary spending reductions were imposed by the Commission in fiscal 1989 in response to overall Commission funding reductions.

FEDERAL TRADE COMMISSION


Commissioner
Commissioner
Chairman
Commissioner
Commissioner
Executive Assistant
Office of Congressional Relations
Office of Consumer & Competition Advocacy
Office of Public Affairs
Office of Administrative Law Judges
Office of Inspector General
Office of the Secretary
Office of the General Counsel
Bureau of Consumer Protection
Office of Executive Director
Bureau of Competition
Bureau of Economics
Regional Offices

STATUTORY AUTHORITY AND DUTIES OF THE FEDERAL TRADE COMMISSION

The Commission exercises enforcement and administrative authority under these Acts:

(1) The Federal Trade Commission Act (38 Stat. 717, 15 U.S.C. §§ 41-58 (1982 & Supp. IV 1986)(as amended by Pub. L. 100-86, 101 Stat. 655, and Pub. L. 101-73, 103 Stat. 441)) - Under this Act, the Commission is charged with (a) the prevention of unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce; (b) the conduct of investigations relating to (1) alleged violations of the antitrust Acts, (2) the manner in which decrees in antitrust suits brought by the United States have been carried out, and (3) the organization, business, conduct, practices and management of corporations engaged in commerce (with certain statutory exemptions) and their relation to other enterprises; (c) the making of reports and recommendations to the Congress with respect to legislation; and (d) prescribing (1) interpretative rules and general statements of policy with respect to unfair or deceptive acts or practices; and (2) trade regulation rules defining with specificity acts or practices that are unfair or deceptive, and establishing requirements designed to prevent such acts or practices.

Title II of the Magnuson-Moss Warranty - Federal Trade Commission Improvements Act (88 Stat. 2193; 15 U.S.C. §§ 45, 46, 49, 50, 52, 56, 57 et seq.) amended the Federal Trade Commission Act to enlarge the Commission's jurisdiction to cover activities "affecting commerce" as well as "in commerce"; to provide for certain procedures when the Commission prescribes substantive rules for unfair or deceptive acts or practices; to increase the Commission's authority to represent itself in civil court actions and before the Supreme Court under certain conditions; to authorize civil penalty actions for knowing violations of rules and cease and desist orders respecting unfair or deceptive practices; and to authorize the FTC under certain conditions to file suit for consumer redress.

Section 20 of the Federal Trade Commission Improvements Act of 1980 (Pub. L. No. 96-252, 94 Stat. 393) prohibited the Commission until September 30, 1982, from conducting any study, investigation, or prosecution of any agricultural cooperative for conduct exempted from the federal antitrust laws by the Capper-Volstead Act (7 U.S.C. §§ 291 et seq.), and from conducting any investigation or study of agricultural marketing orders. Those prohibitions were extended by annual increments to September 30, 1990 under Pub. L. No. 98-166, 97 Stat. 1071; Pub. L. No. 98-411, 98 Stat. 1545, 1551; P.L. 99-180, 99 Stat. 1136; Pub. L. No. 99-591, 100 Stat. 3341-67; Pub. L. 100-202, 101 Stat. 1329; Pub. L. 100-459, 102 Stat. 2186; and Pub. L. 101-162 (October 20, 1989).

(2) Clayton Act (38 Stat. 730, 15 U.S.C. §§ 12-27) (1982 & Supp. IV 1986) (as amended by Pub. L. No. 98-443, § 9 (1), (m), 98 Stat. 1708)) - The Commission is charged under Sections 3, 7 and 8 of this Act with the duty of preventing and eliminating unlawful tying contracts, corporate mergers and acquisitions, and interlocking directorates. The statute was amended by the Robinson-Patman Act, 49 Stat. 1528, 15 U.S.C. §§ 13, 13b, and 21a, which charges the Commission with the prevention of certain specified practices involving to the discriminatory pricing and promotion of products.

(3) The Hart-Scott-Rodino Antitrust Improvements Act of 1976 (90 Stat. 1383; 15 U.S.C. § 18a (1982)) (as amended by Pub. L. No. 101-73 (Aug.9, 1989). This Act, in part, amends the Clayton Act to require the filing of premerger notifications with the Federal Trade Commission and the Antitrust Division of the Department of Justice and to establish a waiting period before certain acquisitions or tender offers may be consummated.

Pub. L. No. 101-162 (October 20, 1989) requires the Commission to impose a filing fee for premerger notification reports. Receipts generated by fees collected in fiscal year 1990 are to be divided evenly between the Federal Trade Commission and the Antitrust Division of the Department of Justice. Receipts in excess of $40 million must be deposited in the Federal Treasury.

(4) Packers and Stockyards Act (42 Stat. 159, 7 U.S.C. §§ 181-229 (1982 & Supp. IV 1986)(as amended by Pub. L. No. 98-620, 98 Stat. 3357 (November 8, 1984)) - The amendments to the Act extend the Commission's jurisdiction to cover certain matters previously subject to the exclusive jurisdiction of the Secretary of Agriculture.

The amendment, in effect, grants the Commission jurisdiction over the activities of packers not related to livestock, meats, meat products, and the like. The Commission is granted additional power and jurisdiction over all transactions in commerce in margarine and oleomargarine and over retail sales of meat and related products. Other matters involving meat and related products are made subject to the Commission's jurisdiction if the Secretary requests the Commission to investigate and report, or where, under certain circumstances, action by the Commission is necessary to exercise effectively its power or jurisdiction with respect to retail sales of meat and related products.

This statute was further amended by the Poultry Producers Financial Protection Act of 1987, Pub. L. No. 100-173, §§ 7, 101 Stat. 917 (November 23, 1987). This provision clarifies the authority of the Commission in regard to this statute by stating that the Commission has jurisdiction and authority over all poultry product transactions in commerce. The Act states that the Secretary of Agriculture may exercise jurisdiction over oleomargarine, retail sales of meat, and poultry products only when the Secretary determines that such action is necessary to avoid impairment of the Secretary's jurisdiction in certain specified proceedings. The Secretary must obtain clearance from the Commission prior to exercising such jurisdiction and must refrain if the Commission notifies the Secretary within ten days of a pending Commission investigation. Annual reports of the Secretary and of the Commission must include information relating to the administration of subsection (e) of the Act, which specifies the instances in which the Secretary may exercise jurisdiction over poultry products.

(5) **Export Trade Act** (40 Stat. 516, 15 U.S.C. §§ 61-65 (1982)) - The Commission is responsible for receiving and filing articles of association or incorporation for "associations" organized under the Export Trade Act; investigating association operations that may adversely affect competition within the United States; making recommendations to associations for readjustments deemed necessary therein; and where considered appropriate, making recommendations to the Attorney General for penal action.

(6) **Wool Products Labeling Act** (54 Stat. 1128, 15 U.S.C. §§ 68-68j (1982 & Supp. IV 1986)) - Under this statute the manufacture for introduction into commerce, or the introduction, sale, transportation or distribution, in commerce, or the importation into the United States of misbranded wool is an unfair and deceptive act and practice under the Federal Trade Commission Act. The Commission is authorized to make inspections, analyses, tests and examinations of all wool products subject to the Act and to make such rules and regulations as may be necessary and proper for the administration and enforcement of the Act. In addition, the Commission is empowered under the statute to prevent the movement of misbranded wool products in commerce by injunction and to proceed by libel action in certain cases for condemnation of such products. This Act was amended on September 24, 1984, by the Drug Price Competition and Patent Term Restoration Act of 1984, Pub. L. No. 98-417, §§ 301-307, 98 Stat. 1585, 1603, to require that wool product labels indicate the country in which the product was processed or manufactured, and that mail order promotional materials clearly and conspicuously state whether a wool product was processed or manufactured in the United States or imported.

(7) **Lanham Trade-Mark Act** (60 Stat. 427, 15 U.S.C. §§ 1051-1127) (1982 & Supp. IV 1986) (*as amended* by Pub. L. No. 98-620, 98 Stat. 3368 (November 8, 1984)) - This statute authorizes the Commission to apply for the cancellation of registered trademarks under certain specified conditions. The Commission, as applicant, must secure the proper evidence on which the

application for cancellation is based, prepare the application, stating the grounds relied upon, be represented at the hearing before a Patent Office examiner for the purpose of presenting such evidence and otherwise prosecute the matter to a conclusion.

Section 18 of the Federal Trade Commission Improvements Act of 1980 prohibited the FTC until October 1, 1982 from using any funds to petition for cancellation of a trademark on the ground that the mark has become the common descriptive name of an article or substance. That prohibition was extended by annual increments to September 30, 1990 under Pub. L. No. 98-166, 97 Stat. 1071; Pub. L. No. 98-411, 98 Stat. 1545, 1551; P. L. 99-180, 99 Stat. 1136; Pub. L. No. 99-591, 100 Stat. 3341-67; Pub. L. No. 100-202, 101 Stat. 1329; Pub. L. 100-459, 102 Stat. 2186, and Pub. L. 101-162 (October 20, 1989).

(8) Fur Products Labeling Act (65 Stat. 175 15 U.S.C. §§ 69-69j (1982)) - The Commission is charged with the administration and enforcement of this statute which requires the labeling of fur articles of wearing apparel, as well as truthful invoicing and advertising of furs and fur products to show, among other things, the true English name of the animal from which the fur was taken and whether the fur is dyed or used. The Commission is also charged with issuing a Fur Product Name Guide and is authorized and directed to cause compliance inspections, analyses, tests and examinations to be made of furs and fur products subject to the Act and to prescribe rules and regulations governing the manner and form of disclosures required under the Act. In addition to administrative enforcement, the Act also provides for injunctive and condemnation proceedings.

(9) Textile Fiber Products Identification Act (72 Stat. 1717, 15 U.S.C. §§ 70-70k (1982 & Supp. IV 1986)) - This statute, which became effective March 3, 1960, covers the broad field of mandatory content disclosure in labeling, invoicing and advertising of textile fiber products. Under its terms, misbranding as well as false and deceptive invoicing and advertising of textile fiber products are unlawful.

The Commission is authorized under the Act to make inspections, analyses, tests, and examinations of all textile fiber products subject to the statute, and to make such rules and regulations as may be necessary and proper for administration and enforcement of the Act. In addition, the Commission is directed to establish a generic name for each man-made fiber that does not as yet have such a name.

Enforcement of this Act is carried out through the administrative procedures established under the Federal Trade Commission Act, together with injunction and criminal proceedings in the U.S. District Courts.

This Act was amended on September 24, 1984, by the Drug Price Competition and Patent Term Restoration Act of 1984, Pub. L. No. 98-417, §§ 301-307, 98 Stat. 1585, 1603 to require that a textile fiber product processed or manufactured in the United States be so identified, and that mail order promotional materials clearly and conspicuously indicate whether a textile fiber product was processed or manufactured in the United States or was imported.

(10) **Federal Cigarette Labeling and Advertising Act of 1966** (79 Stat. 282, 15 U.S.C. §§ 1331-1340) (1982 & Supp. IV 1986)) - This Act became effective on January 1, 1966, and was amended by the Public Health Cigarette Smoking Act of 1969, which took effect on January 1, 1970. The Act requires the Commission to submit annual reports to Congress concerning (a) the effectiveness of cigarette labeling, (b) current practices and methods of cigarette advertising and promotion, and (c) recommendations for legislation. The 1969 amendment requires that cigarette packages bear labels warning of the health hazards associated with cigarette smoking.

The Act was further amended by the Comprehensive Smoking Education Act, Pub. L. No. 98-474, 98 Stat. 2200, (October 12, 1984), which sets forth the text of four health-related warning labels and requires that cigarette packages and advertisments carry these warnings on a rotating basis according to plans submitted by each cigarette manufacturer or importer for approval by the Federal Trade Commission.

Section 11 of the Nurse Education Amendments of 1985, Pub. L. No. 99-92, § 11, 99 Stat. 393, 402 (codified as amended at 15 U.S.C. § 1333(c)), amends the Act and gives special relief to small manufacturers and importers of cigarettes who package more than one-half of their cigarettes into brand styles that constitute less than one-fourth of one percent of all cigarettes sold in the United States. Under these amendments, small manufacturers and importers are not required to, but may, submit for Commission approval a quarterly label rotation plan.

(11) **Fair Packaging and Labeling Act** (80 Stat. 1296; 15 U.S.C. §§ 1451-61) (1982) - This Act requires the Commission to issue regulations having the force of law respecting the disclosure, on consumer commodities, of net contents, identity of commodity, and name and place of business of manufacturer, packer or distributor. The Act authorizes additional regulations when necessary to prevent consumer deception or facilitate value comparisons in respect to declaration of ingredients, slack fill of packages, use of "cents-off" or lower price labeling, and characterization of package sizes. The Act became effective July 1, 1967, and gives the Commission responsibility for consumer commodities other than food, drugs, therapeutic devices and cosmetics. Violations of regulations issued under the Act

are treated as violations of Section 5 of the Federal Trade Commission Act.

(12) **Truth in Lending Act** (82 Stat. 146, 15 U.S.C. §§ 1601-1667e (1982 & Supp. IV 1986) (as amended by Pub. L. No. 98-443, 98 Stat; 708 (October 4, 1984); Pub. L. 100-583, 102 Stat. 2960; Pub. L. 100-709, 102 Stat. 4275) - This Act (Title I of the Consumer Credit Protection Act) delegated to the Commission, effective July 1, 1969, responsibility for assuring compliance by non-depository creditors with this consumer credit disclosure statute. The Act requires all creditors who deal with consumers to make detailed written disclosures concerning all finance charges and related aspects of the transaction, including disclosure of finance charges expressed as an annual percentage rate. These disclosures must be made before consummation of the sale or loan in the case of closed-end credit, and before the account is opened and on every periodic statement in the case of open-end or revolving creditors. The Act also contains specified requirements for any advertisement of credit terms, and it includes a three-day right of rescission in any transaction involving the establishment of a security interest in the consumer's residence (except one taken in connection with the purchase or initial construction of a dwelling).

The Truth in Lending Act was amended on October 26, 1970, to prohibit the issuance of unsolicited credit cards. The Act was further amended by the Fair Credit Billing Act which, effective October 28, 1975, provides for prompt written acknowledgment of consumer billing complaints and reinvestigation of billing errors by creditors that send periodic billing statements. The amendment prohibits such creditors from taking action that adversely affects the consumer's credit standing until the reinvestigation is made, and affords other protections during disputes. The Fair Credit Billing Act further requires the creditors to post payments promptly to the debtor's account, and to refund overpayments or credit them to the debtor's account. The Act was further amended by the Truth in Lending Simplification and Reform Act of 1980, which reduced the number of mandatory disclosures, introduced greater flexibility in credit advertising, and required the Federal Reserve Board to promulgate model disclosures that, if employed and accurately updated, constitute compliance with the disclosure requirements. The Truth in Lending Act provides that a violation of the Act or any implementing regulation shall be deemed a violation of the Federal Trade Commmission Act.

The Competitive Equality Banking Act of 1987, Pub. L. No. 100-86, § 1204, 101 Stat. 662 (August 10, 1987), requires that all adjustable rate mortgage loans include a limitation on the maximum interest rate that may be applied during the term of the loan. Nondisclosure of this limitation is treated under the Act as a violation of the Truth in Lending Act and the Commission is given authority to enforce this provision.

The Fair Credit and Charge Card Disclosure Act of 1988, Pub. L. 100-583, 102 Stat. 2960, requires new and early disclosures in applications and solicitations inviting consumers to open credit and charge card accounts.

The Home Equity Loan Consumer Protection Act of 1988, Pub. L. 100-709, 102 Stat. 4275, requires new and early disclosures for open-end home equity plans, and imposes substantive limitations on these plans.

(13) **Fair Credit Reporting Act** (84 Stat. 1128; 15 U.S.C. §§ 1681 (1982 & Supp. IV 1986) (as amended by Pub. L. No. 98-443, 98 Stat. 703 (October 4, 1984)) - The Fair Credit Reporting Act, effective April 25, 1971, is the only major federal privacy statute applicable to the private credit reporting industry. The Act's basic purpose is to ensure that consumer reporting agencies such as credit bureaus, insurance and employment reporting companies exercise their responsibilities in providing information to credit grantors, insurers, employers and others in a manner that is fair and equitable to the consumer, with proper regard for the confidentiality, accuracy, and legitimate use of such information. Users of such information must tell the consumer when adverse action (such as denial of credit, insurance or employment) is taken on the basis of such reports, and the user must identify the company that provided the report, so that its accuracy and completeness can be verified by the consumer.

(14) **Equal Credit Opportunity Act** (88 Stat. 1521, 90 Stat. 251; 15 U.S.C. §§ 1691-1691f, (1982 & Supp. IV 1986) (as amended by Pub. L. No. 98-443, 98 Stat. 708 (October 4, 1984); Pub. L. No. 100-533, 102 Stat. 2689 (October 25, 1988)). This Act, Title VII of the Consumer Credit Protection Act, effective October 28, 1975, prohibits discrimination on the basis of sex or marital status in the extension of business or consumer credit. It was amended effective March 23, 1977, to add race, color, religion, national origin, sex, martial status, age, receipt of public assistance or good faith exercise of any rights under the Consumer Credit Protection Act as prohibited bases of discrimination. The Act also requires creditors to provide credit applicants with the reasons for denial. Regulations are issued by the Federal Reserve Board. Any violation of the Act or the FRB regulations is treated in the same manner as a violation of a trade regulation rule under the Federal Trade Commission Act.

The Women's Business Ownership Act of 1988, Pub. L. 100-533, 102 Stat. 2689 (October 25, 1988) expanded certain procedural protections of the Equal Credit Opportunity Act.

(15) The Fair Debt Collection Practices Act (91 Stat. 874; 15 U.S.C. §§ 1692-1692o (1982 & Supp. IV 1986) (as amended by Pub. L. No. 98-443, 98 Stat. 708 (October 4, 1984)) - Under this Act (Title VIII of the Consumer Credit Protection Act), effective March 20, 1978, the Commission has enforcement responsibility over the debt collection practices of third-party debt collection agencies that collect consumer debts incurred for personal, family or household purposes. This Act was amended by Act of July 9, 1986, Pub. L. 99-361, 100 Stat. 768, to remove the exemption for attorneys under the Fair Debt Collection Practices Act and to require attorneys in the business of collecting debts to comply with the provisions of the Act.

(16) Electronic Fund Transfer Act (92 Stat. 3728; 15 U.S.C. §§ 1693-1693r (1982) - This statute, effective March 10, 1979, was enacted as Title IX of the Consumer Credit Protection Act to establish the rights, liabilities, and responsibilities of participants in electronic fund transfer systems, with a particular focus on protecting individual consumer rights. The Federal Trade Commission is responsible for the administrative enforcement of this statute, except with respect to certain industries rgulated by other federal agencies.

(17) The Consumer Leasing Act (90 Stat. 257; 15 U.S.C. §§ 1667-1667e (1982)) - This Act, an amendment to the Truth in Lending Act, regulates leases of personal property that exceed 4 months in duration and that are made to consumers for personal, family or household purposes. The statute requires disclosure of relevant lease costs and terms, imposes limitations on the size of penalties for delinquency or default and on the size of residual liabilities, and requires truthful and full disclosures in leasing advertising.

(18) The Magnuson Moss Warranty - Federal Trade Commission Improvements Act (88 Stat. 2183; 15 U.S.C. §§ 2301-2312 (1982)) - Title I of this Act of 1975 authorizes the Federal Trade Commission to develop regulations for written and implied warranties. The Act authorizes the Commission to establish disclosure and designation standards for written warranties; defines the Federal content standards for full warranties; and establishes consumer remedies for breach of warranty or service contract obligations.

(19) The Hobby Protection Act (87 Stat. 687, 16 U.S.C. §§ 2101-2106 (1982)) - This Act, which became effective on November 29, 1973 makes unlawful the manufacture or importation of imitation numismatic and political items unless marked in accordance with regulations prescribed by the Federal Trade Commission. Imitation numismatic items must be inscribed with the word "COPY" and imitation political items must carry the calendar year of manufacture.

(20) **The Deepwater Port Act of 1974** (88 Stat. 2126; 33 U.S.C. §§ 1501-1524 (1982 & Supp. III 1985) (*as amended* by the Deepwater Port Act Amendments of 1984, Pub. L. No. 98-419, 98 Stat. 1607 (September 25, 1984) - This Act requires the Secretary of Transportation to transmit a complete copy of any application for the issuance, transfer, substantial change in, or renewal of any license for a deepwater port to the Federal Trade Commission and the Attorney General. The Federal Trade Commission and the Attorney General must thereafter submit to the Secretary a report assessing the competitive effects of issuing the proposed license.

(21) **The Energy Policy and Conservation Act** (89 Stat. 871, 42 U.S.C. §§ 6201-6422 (1982 & Supp. IV 1986) (*as amended* by the Energy Policy and Conservation Amendments Act of 1985, Pub. L. No. 99-58, 99 Stat. 104 (July 2, 1985) and by the National Appliance Energy Conservation Act of 1987, Pub. L. No. 100-12, 101 Stat. 103 (March 17, 1987)) - The Act (42 U.S.C. § 6285 (as amended) requires the Commission, along with the Justice Department, to participate in the development and, when practicable, the implementation of voluntary agreements and plans of actions by oil companies established pursuant to the International Energy Program provisions of the Act. The Commission and the Justice Department must also report to Congress every six months on the competitive consequences of such agreements and plans. The amendments (42 U.S.C. § 6285 (as amended)) provided that all authority under the International Energy Program, and any rule, regulation or order issued under that program, will expire on June 30, 1988. The expiration date was extended to June 30, 1990, by Pub. L. No. 100-373, 102 Stat. 878 (July 19, 1988). The Act also gives the Commission certain responsibilities with regard to automobile fuel economy, appliance efficiency, and recycled oil.

(22) **The Defense Production Act of 1950** (64 Stat. 798; 50 U.S.C. App. §§ 2061-2169 (1982 & Supp. 1985) (*as amended* by the Defense Production Act Amendments of 1984, Pub. L. No. 98-265, 98 Stat. 149 (April 17, 1984)) - Section 708 of this Act (50 U.S.C. App. §§ 2158, 2158a) requires the Commission and the Department of Justice to participate in the development and implementation of domestic voluntary agreements by oil companies, *i.e.*, all voluntary agreements other than that implementing the International Energy Program. It roughly parallels the Energy Policy and Conservation Act in that, with respect of all domestic voluntary agreements, it requires the Commission to monitor and survey the formation and implementation of the voluntary agreements. After consultation with the Commission, the Attorney General must report each year to Congress and the President on any anti-competitive consequences flowing from such domestic voluntary agreements.

(23) **The Petroleum Marketing Practices Act** (92 Stat. 322; 15 U.S.C. §§ 2801-2841 (1982)) - This Act, enacted on June 19, 1978, authorizes the Commission to prescribe requirements for the calculation and posting of octane ratings by gasoline distributors and retailers.

(24) **The Outer Continental Shelf Lands Act Amendments of 1978** (92 Stat. 629; 43 U.S.C. §§ 1801-1866 (1982)) - This Act authorizes the Commission to consult with and advise the Secretary of the Interior, the Secretary of Energy, the Federal Energy Regulatory Commission, and the Attorney General about rules and regulations for Outer Continental Shelf (OCS) leases; permits, rights-of-way, and related matters involving pipelines; anticompetitive matters relating to OCS pipelines; proposed OCS lease sales; and reports relating to the competition and antitrust aspects of the OCS program.

(25) **National Energy Conservation Policy Act** (92 Stat. 3206; 42 U.S.C. §§ 8201-8286b (1982) (as amended by the Conservation Service Reform Act of 1986, 100 Stat. 932, 42 U.S.C. § 8214) - This Act required the Department of Energy to establish a residential energy conservation program and provided for DOE consultation with the FTC prior to promulgating rules on the content and implementation of residential energy conservation plans. The residential energy conservation program and related FTC responsibilities expired on June 30, 1989.

The amendments made by the Conservation Service Reform Act of 1986 were effective on June 30, 1989, and provide that the Commission has final administrative review of complaints concerning the provision of energy conservation equipment, but only in the event that an appropriate state agency fails to act. If upon such review, the Commission determines there is reason to believe that the utility in question has either charged "unfair or unreasonable prices or rates of interest" or has engaged in "unfair methods of competition or unfair or deceptive acts or practices," the Commission must initiate an adjudicative proceeding in accordance with Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. §45(b).

(26) **Deep Seabed Hard Minerals Act** (94 Stat. 553, 30 U.S.C. §§ 1401-1473 (1982 & Supp. III 1985 (as amended by Pub. L. No. 98-623, 98 Stat. 3408 (November 8, 1984)) - Section 103(d) of this Act (30 U.S.C. § 1413(d)) provides for antitrust review by the Attorney General and the Federal Trade Commission of applications for issuance or transfer of licenses to recover minerals from deep seabed areas.

(27) **Shipping Act of 1984** (98 Stat. 67; 46 U.S.C. App. §§ 1701-1720 (Supp. III 1985) (as amended by Act of May 19, 1986,- Pub. L. No. 99-307, § 11, 100 Stat. 447)) - Section 18 of this Act (46 U.S.C. App. § 1717) gives the Federal Trade Commission

access to data collected by the Federal Maritime Commission concerning the impact of this Act upon the international ocean shipping industry. In 1989, the Federal Trade Commission furnished Congress and the Advisory Commission on Conferences in Ocean Shipping with a report assessing the need for maintaining the tariff system enforced under this Act, and the need for providing antitrust immunity for ports and marine terminals.

(28) National Cooperative Research Act of 1984 (98 Stat. 1815; 15 U.S.C. §§ 4301-4305 (Supp. IV 1986)) - Under this Act, any joint research and development venture for which voluntary, prior written notification has been filed with the Federal Trade Commission and the Attorney General is accorded certain protections. Specifically, the amount of recovery available in any antitrust suit brought under the Clayton Act relating to the conduct of such a venture is limited to actual damages, interest and reasonable attorney's fees. The limitation applies once the Federal Trade Commission or the Attorney General publishes notice of the joint venture in the Federal Register, usually within 30 days of filing, identifying the parties to the venture and the area of planned activity.

(29) Comprehensive Smokeless Tobacco Health Education Act of 1986. (100 Stat. 30; 15 U.S.C. §§ 4401-4408 (Supp. IV 1986)) - This Act prohibits the advertising of smokeless tobacco products on radio and television and requires manufacturers, packagers, and importers of smokeless tobacco products to place one of three statutorily prescribed health warning labels on its product packages and in its advertisements. Under the Act, the Federal Trade Commission must promulgate regulations requiring the label warnings to be displayed, on a rotating basis, in a conspicuous format and prominent place on smokeless tobacco packages and advertisements. Manufacturers, packagers, and importers must submit, for FTC approval, plans that specify the method to be used to comply with the Act's rotation, display, and distribution requirements. Violations of FTC regulations issued under the Act are deemed to be a violation of Section 5 of the Federal Trade Commission Act.

FISCAL 1989 COURT DECISIONS

FTC v. American Direct Industries, No. 89-CIV-1187 (S.D.N.Y.) -- petition to enforce civil investigatory demands in an investigation of possible violation of the FTC's Mail Order Rule. On May 11, 1989, the district court ordered enforcement of the CIDs.

FTC v. American National Cellular and Michael Godfree, No. 86-6664 (9th Cir.) -- action for criminal contempt for violation of injunctive relief entered in suit for permanent injunction and other equitable relief. On February 13, 1989, the court of appeals affirmed Michael Godfree's criminal contempt conviction in the captioned case.

FTC v. Amy Travel Service, Inc., No. 88-1997 (7th Cir.) -- suit for permanent injunction and monetary equitable relief. On April 19, 1989, the court of appeals affirmed the magistrate's award of a permanent injunction and $6.6 million in restitution to injured consumers.

FTC v. Amy Travel Service, Inc., No. 88-2328 (7th Cir.) -- suit for permanent injunction and monetary equitable relief. On May 5, 1989, the court of appeals dismissed an appeal filed by counsel for defendants seeking review of an order of the magistrate imposing a sanction of $1000 upon counsel under Rule 11 of the Federal Rules of Civil Procedure.

FTC v. Atlantex Associates, No. 87-6106 (11th Cir.) -- suit for permanent injunction and other equitable relief. On May 15, 1989, the court of appeals affirmed the district court's grant of a permanent injunction and restitution in a case arising from deceptive sales of partnership interests in oil and gas wells and in a "Teen Disco."

Bolt v. Halifax Hospital Medical Center. Nos. 84-3256 and 84-3603 (11th Cir.) (en banc) -- private antitrust suit by physician challenging revocation of hospital privileges. By opinion of May 16, 1989, the court of appeals sitting en banc reinstated the panel opinion in this case, with the exception of the opinion's discussion of the state action exemption, which it vacated. The Commission had filed a brief amicus curiae in the en banc proceeding maintaining that the appellate panel had incorrectly held that the challenged conduct of defendant hospitals and physicians was protected by the state action defense.

General Motors Corp. v. Abrams, No. 86 Civ. 9193 (S.D.N.Y.) -- suit for declaratory and injunctive relief against operation of provisions of New York State "Lemon Law." On January 18, 1989, the district court granted General Motors' motion for summary judgment, holding that FTC consent order against General Motors preempted relevant portions of New York State law. The Commission had filed a brief amicus curiae arguing that although FTC orders may have preemptive effect, the order in this case did not have such an effect.

FTC v. Illinois Cereal Mills, Nos. 88-2493 and 88-2494 (7th Cir.) -- suit for preliminary injunctive relief against corporate acquisition. On January 30, 1989, the court of appeals affirmed the order of the district court, ordering rescission of Illinois Cereal Mills' consummated acquisition of the Lincoln Grain Company, pending completion of an FTC administrative proceeding to determine the legality of the transaction.

FTC v. Illinois State Bar Association, No. 88-C-4070 (N.D. Ill.) -- petition to enforce investigatory subpoena duces tecum. On April 13, 1989, the district court granted the Commission's petition for enforcement.

FTC v. Impact 2000 Inc., No. 89-2051 (D.N.J.) -- petition to enforce civil investigative demand. On June 15, 1989, the district court enforced the Commission's CID.

FTC v. International Marketing Services, Inc., No. 1:88-CV-1756-RLV (N.D. Ga.) -- petition to enforce civil investigative demands. On October 5, 1988, the district court granted the Commission's petition to enforce civil investigative demands issued to four corporations engaged in advertising, financing, offering for sale, and sale of encyclopedias and other reference materials.

Orkin Exterminating Co., Inc. v. FTC., No. 88-710 (S.Ct.) -- petition to review order to cease and desist. On January 23, 1989, the Supreme Court denied a petition for certiorari seeking review of a decision of the United States Court of Appeals for the Eleventh Circuit affirming and enforcing the Commission's order in its entirety.

FTC v. Promodes, S.A., Red Food Stores, Inc., No. 89-8926 (11th Cir.); No. 1-89-CV-611-ODE (N.D. Ga.) -- suit for preliminary injunction to enjoin acquisition pending completion of FTC administrative proceedings. On April 14, 1989, the district court denied the Commission's request for preliminary injunction. On May 19, 1989, the court of appeals granted the Commission's motion to dismiss its appeal of the district court's decision and vacate that decision as moot in light of the intervening consummation of the challenged acquisition.

Public Citizen v. FTC, No. 88-5209 (D.C. Cir.) -- suit to review rules implementing the Smokeless Tobacco Act. On March 14, 1989, the court of appeals affirmed the district court's decision holding that the Commission lacked authority to exempt personal utilitarian items from advertising warning requirements imposed by the Smokeless Tobacco Act.

Removatron International Corp. v. FTC, No. 88-2245 (1st Cir.) -- petition for review of a Commission order finding deceptive practices in violation of Section 5 of the FTC Act in marketing of hair removal device. On September 11, 1989 the United States Court of Appeals for the First Circuit affirmed and enforced the Commission's order in its entirety and granted the Commission's motion for an injunction pendente lite requiring compliance with the Commission's order pending any further review.

FTC v. Security Rare Coin & Bullion Corp., No. 3-86-1067 (D. Minn.) -- suit for permanent injunction and other equitable relief. On September 11, 1989, the district court entered a judgment granting the Commission a permanent injunction and monetary equitable relief with respect to misrepresentations in the sale of rare coins.

West Texas Transmission, L.P. v. Enron Corp., No. SA 88 CA 0638 (W.D. Tex., San Antonio Div.) -- suit to enjoin compliance with Commission divestiture order. On December 16, 1988, the district court entered final judgment, denying relief sought by plaintiff against the Commission and defendant Enron Corp., thereby permitting consummation of divestiture required by the Commission.

FTC v. World Travel Vacation Brokers, Inc., No. 87-3141 (7th Cir.) -- suit for permanent injunction and other equitable relief against alleged deceptive practices in sale of travel services. On November 9, 1988, the court of appeals affirmed an order of the district court granting the Commission's request for a preliminary injunction including asset freeze pending decision of the case on the merits.

FTC v. World Wide Factors, Ltd., Nos. 88-15143, 88-15326 (9th Cir.) -- suit for permanent injunction and other equitable relief. On August 10, 1989, the United States Court of Appeals for the Ninth Circuit issued an order and opinion (amending its earlier opinion of April 21, 1989) affirming in principal part a preliminary injunction and asset freeze entered against defendants at the Commission's request.

FISCAL 1989 CIVIL PENALTY ACTIONS
CONSUMER PROTECTION MISSION

Bob Wright Motor Co., Inc. This Richmond, Virginia used car dealership, and its owner, Robert L. Wright, agreed to pay $10,000 in civil penalties to settle alleged violations of the Used Car Rule and the Warranty Disclosure Rule. The defendants were charged with failing to display "Buyers Guides" in the side window of vehicles offered for sale to consumers, failing to include a required disclosure in sales contracts, and failing to provide consumers with all required warranty disclosures. The consent decree prohibits future rule violations.

Debt Collectors, Inc. This company agreed to a civil penalty consent decree in the amount of $155,000 for allegedly violating the Fair Debt Collection Practices Act. In addition, the company agreed to include disclosures in certain collection communications to consumers informing them of their rights under the Act in the future.

Dudley Hughes Funeral Co. A federal district court ruled that Dudley M. Hughes, Jr., owner of Dudley Hughes Funeral Company, must pay $80,000 in civil penalties for violating the Funeral Rule. Hughes is also permanently enjoined from violating the rule through failure to provide consumers with price information and required disclosures.

Eastside Motors This Los Angeles, California car dealership, and its president, Charles E. Cook, agreed to pay $25,000 in civil penalties to settle alleged violations of the Used Car Rule. The defendants were charged with failing to display, distribute or properly translate "Buyers Guide" information for consumers. The consent decree further prohibits rule violations.

Eddy's Funeral Home GMJB, a real estate partnership that formerly owned Eddy's Funeral Home, settled charges it violated the Funeral Rule by failing to provide a written general price list to prospective customers; failing to provide written price list of caskets, alternative burial containers or outer burial containers; and failing to give a written itemized statement of funeral goods and services selected.

Errington Memorial Chapel This funeral home settled charges it violated the Funeral Rule by failing to provide each prospective customer with a general price list at the beginning of discussions concerning funeral arrangements, failing to provide price lists for caskets and outer burial containers, and failing to provide an itemized statement of the funeral goods and services selected. Errington agreed to pay $10,000 in civil penalties.

Far West Auto Brokers, Inc. This Las Vegas, Nevada used car dealership and its president, Stan Sefman, agreed to pay $17,500 in civil penalties to settle alleged violations of the Used Car Rule. The defendants were charged with failing to display properly completed "Buyers Guides" in vehicles offered for sale to consumers, failing to provide a copy of the "Buyers Guide" to its customers, and failing to provide consumers with all of the disclosures required by the FTC's Warranty Disclosure Rule. The consent decree prohibits future rule violations.

Green Tree Acceptance, Inc. This company agreed to a civil penalty consent decree in the amount of $115,000 for allegedly discriminating against the elderly by requiring larger down payments and for failing to give some consumers a reason for denying them credit in violation of the Equal Credit Opportunity Act. In addition, Greentree, when it denied credit on the basis of information obtained from credit bureaus, failed to tell consumers it did so in violation of the Fair Credit Reporting Act. The company agreed not to violate the FCRA or the age discrimination and notification provisions of the ECOA in the future.

Goodman Buick-GMC Trucks, Inc. This Littleton, Colorado car dealership, agreed to pay $17,500 in civil penalties to settle alleged violations of the Used Car Rule. The company was charged with failing to properly complete and display required "Buyers Guides" on vehicles offered for sale to consumers. The consent decree prohibits future violations of the Rule.

James H. Turner Funeral Home, Inc. Under a consent decree, Turner agreed to pay $10,000 in civil penalties to settle charges which include failure to provide a general price list to prospective customers; failure to provide a list of prices for caskets, alternative containers or outer burial containers; failure to give an itemized written statement of funeral goods and services selected; failure to explain in writing the reason for embalming, where a fee for embalming was charged; and failure to list separately the retail prices and other information for each of the items offered for sale on the general price list.

John Wannamaker Philadelphia This company agreed to a civil penalty consent decree in the amount of $90,000 for allegedly discriminating against married women who applied for credit in violation of the Equal Credit Opportunity Act. Wannamaker agreed that in the future, when married couples applied jointly for credit, it would not choose to consider one spouse's credit history over that of the other based on sex or marital status.

Koons Ford of Annapolis, Inc. This Annapolis, Maryland car dealership, and its president, Joseph Koons, agreed to pay $40,000 in civil penalties to settle alleged violations of the Used Car Rule, the Warranty Disclosure Rule and the Magnuson-Moss Warranty Act. The defendants were charged with failing to display properly completed "Buyers Guides" on cars offered for sale and to give them to purchasers, and failing to include required disclosures in its warranty document.

Lucas Funeral Home Funeral Corporation of Texas d/b/a Lucas Funeral Home has agreed to pay $20,000 in civil penalties to settle charges that it failed to provide consumers with required information concerning funeral goods and services. The charges include failure to provide a general price list at the beginning of discussions concerning funeral arrangements, failure to provide price lists for caskets and outer burial containers, failure to provide an itemized statement of the funeral goods and services selected and failure to give consumers required written disclosures.

MFM Auto Sales, Inc. This Atlanta, Georgia used car dealership, agreed to pay $15,000 in civil penalties to settle alleged violations of the Used Car Rule. The company was charged with failing to display properly completed "Buyers Guides" on used vehicles it offered for sale to consumers. The consent decree prohibits future violations of the Rule.

Milcon Industries, Inc. This Hendersonville, North Carolina insulation installer, d/b/a Blue Ridge Insulation, Inc., and its officers, Robert T. Miller and David H. Condrey, agreed to install additional insulation in residential and commercial buildings and to pay a civil penalty of $10,000 to settle charges that they violated the R-value Rule. The complaint charged the defendants with misrepresenting the amount of insulation installed, in violation of the Rule. The defendants will not have to pay any civil penalty if 50 percent of the affected purchasers participate in the redress program.

Mytel International This company has agreed to pay $250,000 in civil penalties to settle charges it deceptively marketed supplies directly and through other sales companies. It also agreed to stop doing business with telemarketers that make misrepresentations in their sales. The complaint charged that sales companies working with Mytel made repeated misrepresentations in selling photocopy supplies over the phone to small businesses and nonprofit organizations around the country. The complaint also charged that Mytel authorized, condoned, or assisted in these practices.

Northeastern Software, Inc. The three owners and officers of Northeastern Software, Ronald, Richard and John Grabowski, agreed to pay $10,000 in civil penalties to settle alleged violations of the Mail Order Rule. The Commission charged the defendants with failing to make prompt refunds to consumers who did not receive their orders, failing to send proper notices when shipments would be delayed, and misrepresenting the time periods within which they would ship merchandise ordered over the telephone. The defendants are prohibited from violating the Mail Order Rule in the future, and from making misrepresentations about shipment periods for merchandise ordered by telephone.

Plaza Motors, Inc. A federal district court granted the Commission's motion for summary judgment and ordered Plaza Motors, a Richmond, Virginia used car dealership, and its owner, Stephen H. Lowe, to pay $10,000 in civil penalties for violations of the Used Car Rule and the Warranty Disclosure Rule. The complaint charged the defendants with failing to post required "Buyers Guides" on cars offered for sale to consumers, failing to include required disclosures in the sales contracts, and failing to disclose in warranty documents required statements concerning limitations on the duration of implied warranties.

Ronby Corporation (Fred Astaire Dance Studios) The national licensor of Fred Astaire Dance Studios, agreed to pay $105,000 in civil penalties over a three year period to settle charges that it violated a 1964 FTC order. As part of the settlement, but separately from the consent decree, Ronby and its two owners, Chester and Charles Casanave, agreed to a proposed modification of the 1964 order. The order was modified, giving Fred Astaire Dance Studio students significantly increased protection by providing them with absolute cancellation and refund rights, and other safeguards on prepaid contracts for future services.

Ron Price Motors, Inc. This San Francisco, California used car dealership, and its president, Ronald M. Price, agreed to pay $20,000 in civil penalties to settle charges it violated the Used Car and Warranty Disclosure Rules. The defendants were charged with failing to display "Buyers Guides" on used cars offered for sale and to provide them to purchasers and failing to provide consumers with warranty disclosures.

Shelly Cars, Inc. This Honolulu, Hawaii used car dealership, and its president, Anthony L. Shelly, agreed to pay $30,000 in civil penalties to settle charges it violated the Used Car Rule. The defendants were charged with failing to display "Buyers Guides" on all of the used vehicles it offered for sale.

World Products This company agreed to pay $10,000 in civil penalties to settle alleged violations of the Mail Order Rule. The Commission charged Mail Order Products, Inc., which does business under the name World Products, and David Palgon, president and chief executive officer of the company, with failing to make prompt refunds, failing to send proper notices when shipments would be delayed, and when they did notify buyers, failing to do so within the applicable time period. The consent decree prohibits future violations of the Rule.

FISCAL 1989 CIVIL PENALTY ACTIONS
MAINTAINING COMPETITION MISSION

Midcon Corporation agreed to pay a $100,000 civil penalty to settle charges that it failed to divest its interest in the Acadian Gas Pipeline System as required by a 1986 consent order.Under the order, MidCon had agreed to divest its Acadian interest to a Commission-approved acquired by February 26, 1987. MidCon still had not divested the interest by August 1, 1988, when the Commission revoked the divestiture requirement. According to the Commission's complaint, MidCon's failure to divest the interest was a violation of the 1986 order.

Cooper Industries, Inc. agreed to pay a $100,000 civil penalty to settle charges that it violated a 1979 Commission order by purchasing stock in another gas compressor manufacturing company without getting prior FTC approval. The 1979 order settled FTC charges that Cooper's planned acquisition of the Gardner-Denver Co. was likely to reduce competition in the manufacture and sale of certain reciprocating gas compressors and hand-held pneumatic tools. The order required Cooper to obtain prior FTC approval until June 1989 before buying stock in any company that manufacture certain reciprocating gas compressors. According to the complaint, Cooper violated the 1979 order by acquiring nearly 200,000 shares of McGraw-Edison Co. stock in 1984 without getting prior FTC approval. McGraw-Edison manufactured gas compressors covered by the order.

The Great Atlantic & Pacific Tea Co. agreed to pay a civil penalty of three million dollars to settle charges that it violated the premerger notification requirement of the Hart-Scott-Rodino Act. The complaint alleged that the defendants violated the Act in connection with the acquisition by A&P on November 26, 1986, of more than $15 million worth of voting securities of Waldbaum, Inc. of Central Islip, New York by structuring the acquisition through a general partnership that was created for the purpose of avoiding the obligation of to comply with the H-S-R Act.

Mr. **Smith**. We have the Chairman of the FTC, the Honorable Janet Steiger.

GENERAL STATEMENT

Do you have a statement for the record?

Ms. **Steiger**. Yes, Mr. Chairman, and I have a short oral excerpt, if that would suit you.

Mr. **Smith**. That would be fine.

Ms. **Steiger**. And I will offer the other one for the record.

Mr. **Smith**. That is fine. Please proceed.

Ms. **Steiger**. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am pleased to appear before you today to discuss the Federal Trade Commission's fiscal 1991 budget request and to answer any questions, if I can, sir.

Now, the Commission is charged with protecting the American public from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. With resources requested in the budget, the Federal Trade Commission can continue to meet these important responsibilities.

The proposed budget for fiscal 1991 requests $76,990,000 and 970 workyears, an increase of $3,374,000 and 20 workyears over the fiscal 1990 program level. This increase will fund a 20 workyear increase and inflationary cost increases over which the Commission has no control.

The Commission sustained a nearly 50 percent reduction in workyears during the past decade, and experience has shown that this reduced level is insufficient to fully perform our mandated activities. With the revised funding provided by the Congress in the fiscal 1990 appropriation, wherein one-quarter of our funding will depend on fee income generated from pre-merger notification filings, the Commission is able, for the first time in 10 years, to stop its resource decline and to provide for a small increase.

We have taken this message from Congress and the administration seriously and we have started the reinvigoration of our activities in fiscal 1990, and we hope this will build into fiscal 1991 and beyond.

We have done some exciting things recently and they include working on a major joint effort with the U.S. Postal Inspectors to shut down six telemarketing companies that were fraudulently promoting their products; working with eight State attorneys general on potentially fraudulent advertising for biodegradable products; pursuing the serious problem of targeted advertising of alcohol products to minors, especially on college campuses; we have initiated enforcement actions with respect to nine mergers, compared to three at this same time last year; and we are pursuing potential collusion and other anti-competitive or illegal activities by otherwise legitimate organizations, and these investigations have already resulted in administrative cases.

Continuing and building on this pace of activity, however, requires some degree of certainty in our available resources. We need to know that we are going to have the staff to pursue to conclusion the actions that we initiate.

So far in fiscal 1990, fee income is a concern, even discounting the fact that we lost the opportunity to collect fees in October and November. We would hope to work closely with the Appropriations Subcommittee and the Office of Management and Budget to avoid the "resource roller-coaster," which would sap the vitality of the efforts that have begun.

In fiscal 1991, we are requesting what we consider to be the minimum necessary increase in resources to continue our rebuilding efforts. The funding level requested will allow us to maintain our increased pace with merger related activity, as well as to keep pace with rapidly expanding—very rapidly expanding—forms of consumer deception and unfairness.

Funding for the Commission consists of approximately 74 percent appropriated funds and 26 percent fee income in fiscal 1991. The 1991 program level of $76,990,000 assumes full collection of the $20 million in fees. Therefore, we are dependent on the full $20 million fee income to maintain the program levels described in the budget we submitted.

As Chairman, I am committed to several policy goals. First, I do want to increase and continue the public confidence in the FTC as a judicious, vigorous law enforcement agency. A very important step in this direction has been to halt the decline in resources at the Commission, and the work of this subcommittee in supporting the first increase in FTC funding in 10 years is very much appreciated, Mr. Chairman.

Second, I have asked staff to increase their vigilance and to recommend ways to streamline and improve the review of proposed mergers. We also have a unique role in the non-merger civil antitrust enforcement area, and this is also undergoing review. We think expansion of our non-merger enforcement activities is important to help ensure that we do not overlook potential cases or insufficiently support existing ones.

Finally, I am working to eliminate any confrontational attitude toward constituencies that are concerned with the work of the Federal Trade Commission, including the Congress, the States, the legal community and public interest groups. To attain this goal, the Commission has embarked on a program of increased communications with consumers, with businesses and regulators, and we have held a number of meetings with all of these groups to discuss their consumer protection and antitrust concerns. We are working very hard to develop a productive relationship with the State attorneys general and with local regulatory officials, and the results of these efforts will help, we hope, guide the development of Commission enforcement policies in the future.

Mr. Chairman, that concludes my prepared remarks. I would be pleased to answer any questions you may have.

[The prepared statement of Chairman Steiger follows:]

PREPARED STATEMENT

OF

JANET D. STEIGER

CHAIRMAN

FEDERAL TRADE COMMISSION

BEFORE THE

SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE, THE

JUDICIARY, AND RELATED AGENCIES

OF THE

COMMITTEE ON APPROPRIATIONS

U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1990

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you today to discuss the Federal Trade Commission's fiscal 1991 budget request and to answer your questions.

Congress has charged the Commission with protecting the American public from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. With the resources requested in this budget, the Federal Trade Commission can continue to meet this important responsibility.

AGENCY REQUEST

The Commission's proposed budget for fiscal 1991 requests $76,990,000 and 970 workyears. This funding level is 5 percent higher than the agency's fiscal 1990 program level of $73,616,000, and 20 workyears greater than the 950 workyears planned in fiscal 1990. This $3,374,000 increase between fiscal 1990 and 1991 will fund the 20 workyear increase, annualized pay and retirement cost increases, and other inflationary cost increases over which the agency has no control. Of the $3,374,000 increase, $3,114,000 is related to direct budget authority and $260,000 is related to fee income. The increase in fees is to restore the fiscal 1990 sequestration reduction only; it is not an increase in the authorized fee level.

The Commission sustained a nearly fifty percent reduction in workyears during the past decade and has determined that this reduced level is insufficient adequately to perform our mandated activities. With the revised funding provided by the Congress in the fiscal 1990 appropriation, the Commission is able for the first time in 10 years to stop its resource decline and provide for a small increase. In fiscal 1991, we are requesting what we consider to be the minimum necessary increase in resources to continue to restore the Commission to an appropriate enforcement level. This funding level will provide for the increase in workyears needed to keep pace with the growth in antitrust related activity and in consumer injury resulting from such activity as telemarketing fraud and unfair or deceptive advertising and marketing practices.

IMPACT OF FUNDING CHANGE

Beginning with the fiscal 1990 appropriation, Commission funding consists of direct budget authority and fee income charged for Hart-Scott-Rodino pre-merger filings. Fully 26 percent of our funding, or $20,000,000, is now represented by fee income. The fiscal 1991 program level of $76,990,000 assumes full collection of the $20,000,000. Thus, the Commission is now dependent on all the $20,000,000 fee income to maintain the critical antitrust program levels described in this budget request.

FISCAL 1990 FUNDING STATUS

The fee income component of the 1990 program level is $19,740,000 or about 27% of our total required program level. Due to the late start of the fee and a possible downturn in merger transactions, we may not collect the full amount in fiscal 1990.

POLICY INITIATIVES

As Chairman, I am committed to several policy goals. First, I believe we should continue and increase public confidence in the Federal Trade Commission as a vigorous law enforcement agency. One step in this direction is to halt the decline in resources at the Commission. The work of the Appropriations Committee in providing us an increase in our fiscal 1990 funding, the first in 10 years, is greatly appreciated.

Second, I have asked staff to increase their vigilance and to recommend ways to streamline and improve the review of proposed mergers. The Commission also has a unique role in civil, non-merger antitrust enforcement, and this too is also undergoing review. Expansion of our non-merger enforcement activities is important to help build our credibility and thereby enhance the deterrent effects of our actions. This expansion also will help ensure that we do not overlook anticompetitive conduct that should be challenged or insufficiently support our existing cases.

Third, I am working to eliminate any confrontational attitude towards constituencies concerned with the work of the FTC, including Congress, the states, the legal community, and public interest groups. To attain this goal, the Commission has embarked on a program of increased communications with consumers, businesses, and regulators. We have held a number of meetings with consumer groups and business leaders to discuss consumer and antitrust concerns. We are working very hard to develop a productive working relationship with State Attorneys General and local regulatory officials. The results of these efforts will help guide the development of Commission enforcement policies in the future.

PROGRAMS

As in prior years, resources for fiscal 1991 will be directed against business practices that harm competition and injure consumers. In fiscal 1991, the Commission will continue to work directly with the business community to achieve voluntary compliance through education and articulation of policy. A case-by-case enforcement approach coupled with advisory efforts will continue to be the Commission's primary method of enforcing the law.

The Commission's fiscal 1991 budget requests funding, almost equally divided, for the agency's two missions as follows: Maintaining Competition - $37.3 million and 465 workyears; and Consumer Protection - $39.7 million and 505 workyears.

Maintaining Competition Mission

The Maintaining Competition Mission budget for fiscal 1991 requests an increase of 8 workyears from fiscal 1990. All of the $20,000,000 projected for fee collection is used to support this mission and any shortfall in fee collections reduces our ability to conduct antitrust enforcement.

Among other things, the $37.3 million dollars and 465 workyears allocated to the Maintaining Competition Mission will permit the Commission to:

1. Challenge anticompetitive mergers that could lead to higher prices, restricted output, diminished innovation, or other harms to consumers. We have seen a substantial rise in merger activity over the last decade while our staff has declined, and even at this increased request level, the staff will continue to be stretched thin.

2. Investigate alleged restrictions on competition in the delivery of health care services and other licensed occupations. Health care services, a major sector of the economy, have been characterized for many years by rapidly rising prices.

3. Continue our emphasis on finding and eliminating restraints among direct competitors that raise or maintain prices above competitive levels or otherwise harm consumers.

4. Assure compliance with all outstanding Commission orders while also reviewing selected orders to ensure they still promote the procompetitive environment that is the central goal of the Commission's legal mandates.

5. Render advisory opinions, to increase conformance by business with the laws we enforce.

6. Respond to requests from Congress, other legislative bodies and federal and state regulators for our assessment of the competitive effects of proposed legislation, regulations or policies.

Consumer Protection Mission

The Consumer Protection Mission for fiscal 1991 requests an increase of 12 workyears from fiscal 1990. The $39.7 million and 505 workyears proposed for this mission will permit the Commission to:

1. Target areas where there is substantial consumer injury -- particularly in cases involving fraud, deceptive sales or marketing practices, false or deceptive advertising, and credit law. Telemarketing fraud and deceptive advertising are areas of consumer injury that have seen tremendous growth.

2. Respond to requests from state and federal agencies to analyze the possible effects of their regulations and proposals on consumers, and within the legal constraints designed to protect business confidentiality to share information necessary for effective law enforcement.

3. Work aggressively to educate consumers of their rights and businesses of their responsibilities under the Commission's consumer protection Trade Regulation Rules and adjudicative orders.

4. Monitor compliance with existing rules and orders, litigating where necessary to ensure compliance.

MANAGEMENT INITIATIVE

The agency's major management initiative for both fiscal 1990 and 1991 will be to focus on ways to improve staff productivity through the increased use of modern information systems technology. Over the past five years, the FTC has developed and put in place a comprehensive infrastructure of systems to meet basic office automation, voice, and data communications, and central computing needs of the Commission and its staff. The potential productivity contribution of these systems remains to be fully realized, however, and for this reason, the first order of business now is to assure that these systems are maintained and used effectively. To tap this potential, the Commission has acted to partially restore recent cuts in our capital equipment budget. The fiscal 1991 budget also provides an increase of 2 workyears to support our information systems base.

AUTHORIZATION

As you know, the Commission has operated since fiscal 1983 without authorization legislation. The appropriation language for the Commission has continued several provisions of the expired authorization bill. We request each year, including this year, that these provisions be deleted because time and practice have made them moot, but also because we hope it would encourage the enactment of an authorization bill.

At present, the Senate has passed a bill (S.1249); the House has not. I know your committee has supported us in our efforts to secure authorization. The Commission is committed to this effort.

* * * *

Mr. Chairman and members of the Subcommittee, I hope that our fiscal 1991 budget submission makes it clear that the Commission is determined to carry out effectively all its statutory mandates using only the necessary level of resources. That concludes my prepared remarks. I would be happy to respond to your questions.

APPOINTMENT OF CHAIRMAN

Mr. **Smith**. Now, when were you appointed?

Ms. **Steiger**. The middle of August of last year.

Mr. **Smith**. Were you confirmed before the Congress adjourned?

Ms. **Steiger**. Yes, sir.

Mr. **Smith**. So, you were on-board all during the time this budget was prepared, then?

Ms. **Steiger**. Certainly through the last phase of preparation of it. Our preparation goes on in quarterly cycles at the Commission, but I was here for the final cycle.

OMB REQUEST

Mr. **Smith**. What did you request of OMB?

Ms. **Steiger**. To OMB, we requested $77,730,000.

Mr. **Smith**. And what does the difference between what you requested then and what they permitted you to ask us for represent, in terms of programs?

Ms. **Steiger**. Our original OMB request would have supported 1,004 workyears. The actual amount of $76,990,000 would support 970.

Mr. **Smith**. Well, what would those positions have been, if you had been able to fund them?

Ms. **Steiger**. I presume that we would have used them in about the proportion that we have used the new positions that we have been able to commit, and that is roughly half and half between the Bureau of Consumer Protection and the Bureau of Competition, including increased support for our ADP or automated data processing shop, which we rely on more and more heavily, as resources are scarce.

FTC-DOJ RELATIONSHIP

Mr. **Smith**. Unfortunately, the FTC has not had an authorization for some years and we have had to handle ineffect, both authorizations and appropriations here. There has been a feeling on this subcommittee, and in the Congress generally, that the FTC—in view of the fact that the Justice Department during this period of time has not seemed to be very interested in preserving competition and filing antitrust actions, et cetera—the FTC is being relied upon more heavily all the time to do a little something to keep competition on something other than monetary basis available for especially small businesses.

Small businesses depend on somebody keeping the marketplace out there fair, and that is one reason you got an increase last year—not that you didn't need more of an increase before that. It indicates the feeling in the Congress, and I think in the country, that we have got to do more than we have done in the last eight years to preserve the right and ability to compete in this country, and that what you are doing is important.

Now, I know that you and the Justice Department divide up some of the decisions with regard to mergers, for example. Have you had any problems with that?

Ms. **Steiger**. No, that relationship has worked with what I think many would call surprising harmony. The clearance process can be problematic if it is delayed, because of the short time frames, but we have worked in tandem together very well for a number of years, and certainly are in concert with Jim Rill now, the Assistant Attorney General for Antitrust.

MERGER FINANCING

Mr. SMITH. Have you been in on the decisions regarding mergers that had to be approved before they could sell junk bonds, or have most of those been handled at the Justice Department?

Ms. STEIGER. Well, I do not speak for Justice, or either agency, while the method of financing a merger can be of overwhelming public policy import, it is not an antitrust issue.

Mr. SMITH. Well, I know, but if a merger has the potential to reduce competition, then before junk bonds are sold to buy the additional companies, there needs to be a green light. There are some people who say that part of the problem we have, and the reason there are so many junk bonds sold, was because there was practically no one there at the gate to challenge anybody who wanted to merge anything.

Ms. STEIGER. Well, as I have said, whether that perception is true or not, it cannot be allowed to continue. It is an unhealthy perception and our staff has been instructed and are working diligently to review all mergers, particularly those in areas where there may be high concentration, barriers to entry, all of which can mean that you have an anti-competitive and possibly collusive situation. We review them with great vigilance.

We have issued a number of second requests, more so than in preceding years, and while this is not a numbers game, I think it is indicative of staff and Commission commitment to a very careful scrutiny of the anti-competitive effects of mergers. We are at it every day and we think the staff has the message, under the leadership of our new Bureau Director, who is proceeding with great vigilance in the merger area.

COMMISSIONER VACANCIES

Mr. SMITH. Do you have any vacancies on the Commission?

Ms. STEIGER. For Members?

Mr. SMITH. Yes, are there any vacancies?

Ms. STEIGER. There is one expired term being filled by Andy Strenio and another Commissioner's term will expire in the fall. As you know, we have no limit on the amount of time served past expiration. Commissioners can serve until another member is appointed and confirmed. So, we have a full complement.

CHANGE IN ENFORCEMENT

Mr. SMITH. I know this is something you cannot just answer with yes or no, necessarily, but I am interested in whether you feel like there has been any change in attitude toward your mission in this administration? Since you have been there, have you detected any change? I will not speak for everyone, but I think most people agree that for several years the attitude at the commission was—it was not as bad as it was in Justice, but, nevertheless, the attitude was that the FTC wanted to stay out of everybody's way. Has that turned around? Is there an attitude now that you want to do what you are supposed to do under the Federal Trade Commission authorization?

Ms. **Steiger**. Well, I cannot say any more than I have, but I am personally committed to a vigorous, judicious enforcement agency, I think we must regain that image.

Mr. **Smith**. Do you believe in the mission that you have?

Ms. **Steiger**. I certainly do.

Mr. **Smith**. I will yield to Mr. Rogers.

MERGER FEES

Mr. **Rogers**. Now your total request is broken down into two parts; $56.9 million is from direct appropriations, and the balance, around $20 million, is anticipated to come from filing fees, premerger filing fees created in the bill we passed last year, is that correct?

Ms. **Steiger**. Yes, sir.

Mr. **Rogers**. So you are a little bit dependent—well, you are extremely dependent—upon those filing fees coming in and being counted up to the $20 million level, are you not?

Ms. **Steiger**. And we are concerned about it, sir, for 1990, even before we get to fiscal 1991.

FEE FILING TREND

Mr. **Rogers**. How are they coming along?

Ms. **Steiger**. To date, in the first five months, filing fees are running below the same period last year; through January, filings are running about six percent less; February appears to not be very good, but is 33 percent less. And if you average those together and get about an 11 percent fewer filings than last year, and we project, accounting for some seasonal variations that appear to happen in the merger business that, by the end of the seven months remaining in the year, we could collect, in a worst-case scenario, no more than $14 million. We would then be in a shortfall position for the budget authorization level of '90 of $5.7 million. And I must say, sir, that we are concerned about that.

The same projection carried out through '91 would indicate collections of $17 million or a shortfall of $3 million. This may never happen. We cannot tell what is going to happen in this current business climate with mergers. All we have to work on now as a predictor is the first five months, and they indicate a decline in those filings.

SUPPLEMENTAL REQUEST

Mr. **Rogers**. So am I hearing you say that you possibly could come back with a supplemental request?

Ms. **Steiger**. The Commission has just about finalized one, and we have informed OMB that we are going to submit a supplemental, not for any increase in our budget, but for assurance of funding within the authorized budget range of 1990. Without some assurance, and if we have to plan for the worst case, we have to start taking some action very soon on the personnel side.

We think that given the amount of time it will take for new hires to come on in '90 as we had planned it, there is always some lag time between the time they take on their duties and the time they commit to us. We think our bottom line requirement is about $72.5 million. That is $1.1 million less than the authorization level of $73.6 million. It is still a shortfall, and this will be very close to the number. But we are going to ask for at least a guarantee of $4.5 million, a loss which the agency could not sustain if it were to happen without cutting, not only new initiatives, but making severe inroads into programs now underway.

FILING DECLINE

Mr. ROGERS. Have you got a feel for why those filing fees are considerably down from previous years?

Let me ask you a different way. Does it look like that is going to be a permanent decline?

Ms. STEIGER. Oh, I wish I knew. We do not know whether there is something in the current business climate, whether the concern over financing implements such as the junk bonds and current events in that area, or just general caution in the economy is having an effect. There are those that would suggest that tougher merger enforcement may be to blame for some of it. I doubt that this is the case.

We do not know if it is going to continue. It may bound right back to where it has been. There has been steady growth in mergers in the past four to five years, some would say astronomical. Our concern is just that—the fact that we cannot answer your question. And if we live throughout the year and come to the end of August and find out the answer, we could be in a serious deficit position which, of course, we are not allowed to be in.

FEE INCREASE

Mr. ROGERS. Perhaps we should raise the fee. What do you think?

Ms. STEIGER. My head is rolling with the economist's cost benefit analysis of how many filings would drop off if you raised it, so I am going to punt on that one.

Mr. ROGERS. Well, what would be the impact if you raised the fee?

Ms. STEIGER. I do not know that.

Mr. ROGERS. What could be the impact? I mean, I am going to ask it until I finally get you to give me some sort of answer.

Ms. STEIGER. Well, I suppose there would be those who would say that it would deter mergers that, in fact, are pro-competitive and in the interest of efficiency, and many of them are, as you know. Many mergers are far from suspect. Most of them are good for the economy. So I think there would be those who would claim there would be a deterrent to appropriate merger activity.

I do not know, and I do not know where the magic number would be that would act as a deterrent.

Mr. ROGERS. Well I suppose you will be back with us one of these days about where we are on the supplemental request.

Ms. **Steiger**. I wish I could tell you that was not the case, but I am afraid so at this point, sir.

MERGER ENFORCEMENT

Mr. **Rogers**. Well, I am glad to hear you say, by the way, that some mergers may be good. While the Chairman is right in that we should prevent anti-competitive mergers, there are mergers, particularly in this day and time of stiff competition from foreign-sourced companies, Japanese or German companies, that should be encouraged and permitted.

Some American mergers have to be allowed in light of the new international competition that is out there, it seems to me.

Ms. **Steiger**. Well, the vast proportion of mergers that come under scrutiny through the HSR filing requirements have no competitive overlap at all. They have no problem whatsoever. It is, in fact, a relative few that have possible anti-competitive effects. Those are the ones we look at, and those are the ones we look at very carefully, and we hope not to miss any of them.

ADDITIONAL POSITIONS

Mr. **Rogers**. Now your '91 request is seeking 20 additional positions, which is something we do not see much around here from your agency.

Ms. **Steiger**. Our defense is we lost 50 percent of our positions over 10 years. We have got to start somewhere.

Mr. **Rogers**. Maybe you can help us divide the tea leaves. Does this mean that you are going to be a lot more aggressive in your duties, or does it mean the work load is higher? What does it mean? Why do you need the extra 20 people?

Ms. **Steiger**. Let us just start with the area of merger review. Even with the commitments that we have now to be able to increase hiring somewhat in 1990, we are still in the merger review area borrowing bodies and minds from other areas of our Commission where they should be pursuing their work, whether it be in horizontal restraints; whether it be in non-merger antitrust, which is an area that needs serious consideration, or whether it be in a consideration of past mergers to find out how we hone our tools, and how we better judge what we see as it comes before us.

We are still using borrowed people who should be back at their own desks. We have a staff from the merger front that is, quite frankly, overworked and close to burnout. That is for openers. It is just a basic human need, if we are going to continue good merger review. And remember, every second request or request for additional information involves a full-blown investigation of a highly technical and very intensive nature in a very short time period.

So if we issue more of those, we have made more work for ourselves. Will we be more aggressive? I would not want to leave any suggestion that we are going to do anything that is not judicious and is not fully defensible within the mandates of our statutes, and that is what we are going to do.

Again, whether the perception that this has not been done in the past is right or wrong does not matter. It is a poor perception. We aim to change it, whether it means that there is anything a great deal different, time will tell.

Mr. ROGERS. Thank you very much.

Ms. STEIGER. Thank you, sir.

Mr. SMITH. Mr. Regula?

MERGER REVIEW PROCEDURE

Mr. REGULA. Thank you. I have a couple of questions for the record. But I am interested in your merger procedure. It seems to me the past several years have been pretty lax in allowing mergers that might create an uncompetitive environment. As I understand it, you do not have much time to review these, is that correct?

Ms. STEIGER. We do not. We have 30 days before you have to either close or move, or is it 15? A cash tender, it is 15, correct?

Ms. CLARK. The initial waiting period is 30 days.

Ms. STEIGER. And a cash tender?

Ms. CLARK. And a cash tender is 15.

Ms. STEIGER. Now, that time period is a little confusing. As the staff is reviewing, they will many times come to the chairman and say, "We think we need a second request here. We need more documents. We need to have more holes filled in because we suspect there is an anti-competitive overlap here."

But we do not know. Then the clock stops, and it does not begin to run again until the parties are in compliance with the second request and have provided you with documentation.

Mr. REGULA. So in effect, you can have a much greater time if you felt the situation required it?

Ms. STEIGER. Depending on when they come into compliance with their papers. That is in the control of the parties. Once they come in, the clock begins to run again and the Commission must determine whether to take action or to close the case.

THIRD PARTY INVOLVEMENT

Mr. REGULA. Let me give you a for instance. I think Dunkin' Donuts has a request before you to take over Mr. Donut. And my question would be, franchisees, for example, who will be substantially affected by this type of approval, would they have an opportunity to be heard, and would it give them that short time frame?

Ms. STEIGER. Without reference to the specific mergers—you know we do not talk about that. We are not any fun. We do not say what we are doing. We don't even say if we are doing it.

Mr. REGULA. I am using as an example, would there be time for——

Ms. STEIGER. Generically.

Mr. REGULA [continuing]. Third parties to get their——

Ms. STEIGER. Absolutely, if staff finds a concern. As they are reviewing it, one of the first things they do is start placing phone calls to competitors. In a second request, third parties are very important in fleshing out the playing ground and the business climate of the arena.

So yes, I think once there is a concern at all, you will see the phone wires buzzing, and one call will lead to another. But that is done, and that is done in a very short time period.

Mr. **Regula**. But you say as a practical matter then, it is rare that one would be approved within a 30-day period?

Ms. **Steiger**. No, we close them if there is no—let us say that you have two entities that are merging. One was the acquiring party, has absolutely no business overlap with the acquired party, and this is clear. A widget-maker is going to buy a balloon factory, and there is absolutely no connection, no way in which you can see the possibility of market collusion or entry barriers or a combination of both. That would probably be closed unceremoniously. A closing letter would be sent and no further review would be given. And a fair number, a fair proportion of mergers that we look at do indeed present no anti-competitive aspects.

THIRD PARTY RECOURSE

Mr. **Regula**. Any of that, that you approve and to which third parties would object, what would be their recourse? Can they have your decision challenged through judicial procedures?

Ms. **Steiger**. Well in the past, when there has been a dispute, we have seen State attorneys general acting regarding divestiture and the limits of divestiture. You always have the private right to sue in the antitrust area. In fact, a clear body of the antitrust law has developed because of private suits. We are limited to considerations, of course, of those with interstate effect on commerce. But you have seen many private actions in states with mergers that might never even come to our attention, and I am sure that will continue.

Mr. **Regula**. A challenge to a decision that would be made by FTC would be through the courts in the event there is a third party or parties that might feel that it was abuse of discretion, is that correct?

Ms. **Steiger**. Yes, presumably. We however, have not run afoul very often of the courts in the evaluation of our decisions. We have fared quite well, by and large, which you would expect of a very experienced ancient agency.

Mr. **Regula**. Well, I will submit the rest of mine for the record, Mr. Chairman.

PROGRAM INCREASES

Mr. **Smith**. I guess we could do it for the record, but we ought to go into more detail on these program increases. What emphasis are you going to put on those?

Ms. **Steiger**. Well for 1991, we are looking at workyears of seven additional in the competition mission. And as I said, we need more help in mergers. We are going to add a couple of workyears to horizontal restraints, and one to distributional restraints and four to the merger shop, where we do need to replace some of the people who are on loan, frankly.

Then the other ten are going to go to consumer protection, and we have not talked about that much. But I might mention that there are two areas of growing concern out there; telemarketing fraud is just rampant. There does not seem to be any end to it. We are working very hard to try and coordinate efforts with the States and with other enforcement agencies. The Postal Service has been extremely helpful, and we have done some very good work in the last month with them.

But we would like to see if we can get to the bottom of it. We realize that we are not the answer to telemarketing fraud. Criminal enforcement is. But we are going to keep at it. There are not enough criminal resources out there to go after it all. We think we are getting a better picture of what may indeed be a network. It may be that these individual "dandelions" of fraud have some sort of a root structure, and we are looking for it.

FTC-DOJ JOINT STRATEGY

Mr. **Smith.** Are you working with the Justice Department on a joint strategy for this?

Ms. **Steiger.** We are working certainly with the Justice Department at any time, and as you know, any investigation that we undertake is undertaken with the caveat that if we find there is hard-core criminal behavior—we refer it to Justice.

Mr. **Smith.** Well, specifically with regard to telemarketing fraud, are you dovetailing your efforts? Are you getting help out of the Justice Department?

Ms. **Steiger.** We just specifically keep pursuing telemarketing fraud. I think we have done more, probably, than Justice, because we have 13(b.), where we run into—well, we have a very powerful weapon to go in and shut people down with a cease and desist. Now that may not get any money back, but it will get them off the street. And we use that vigorously and will continue to do so.

Justice's discretionary prosecution of criminal matters that we send is obviously just based on their own resources, and the enormous demands on what they have to do in the drug area and also hard-core antitrust. But we work closely with them, and we are trying to work as closely as possible with the AGs.

The case that I mentioned, involving the Postal inspectors, where we shut down six scams out in Texas, we worked with the U.S. Attorney from Dallas, and we are in communication with them when it is relevant.

FRAUD PROSECUTION

Mr. **Smith.** How does that work? I am just curious. Obviously if there is fraud, it probably would be tried in a certain district unless it was nationwide, and then the Justice Department would select the district in which they wanted to try it. But do you initially contact the Justice Department in these instances?

Ms. **Steiger.** It just depends very much on the case. If the FTC at headquarters has found, or even if a regional office, which acts as a mini FTC, has found what appears to be a criminal case, we refer it to Justice here in Washington. By the time that occurs, probably there has been discussion with the U.S. Attorney in the area in any event. But our referrals generally go from headquarters, because they are reviewed here.

TELEMARKETING LAWS

Mr. **Smith.** You said that telemarketing fraud is rampant. Is there some change that is needed in the law?

Ms. Steiger. Well, there are several proposals on telemarketing fraud. We are going to comment this week on Senator McCain's bill. We would like some more authority. Everybody always says give us a little more authority. But we would like, for example, CIDs for physical evidence in a lot of these frauds. It is not documents you need, you need the actual object to see what it is they are handing off on the public.

We would like—you mentioned the fact that it occurs in several States—we would like to be able to establish a venue so that we could go in with several defendants from several States into one court. We think that it is going to become increasingly important, because the more sophisticated these folks get, the more they scatter their resources throughout several States. And the FTC as a Federal enforcement body is the logical one to go after these people. We would like to be able to go after them in one district.

And we are getting sympathetic response to some of those requests for additional authority. The main thing we need; you have got to maintain the resources that we have, and we have to maintain the resources so we can coordinate with other folk who are just as strapped for resources as we are.

Mr. Smith. I want to tell you, Chairman Steiger, that it has been difficult for me sitting here the last ten years, because I recall one of my favorite subjects in undergraduate school used a book about three inches thick on the Federal Trade Commission. So I always thought that that was a great law that had passed.

I remember when I first came here, I went on the House Floor and I sat down beside Wright Patman, who happened to be sitting there. He introduced himself, or I introduced myself to him, and I said, "Are you any relation to the Patman who authored the legislation back years ago?" He said, "I happen to be him." [Laughter.]

Mr. Smith. Anyway, yours has been an important agency. It just seemed like, for a number of years, there was not enough interest in fulfilling the mission of this agency. Small businesses all over this country can compete if the market is fair, but we have had too many instances where they cannot compete because of unfair advantage taken by big companies, or where a lack of competition results both in problems for small businesses, and for consumers.

And then one of your predecessors used to tell us here, "I can do better with less people."

Ms. Steiger. Well, he was "a better man than I am, Gunga Din." [Laughter.]

Mr. Smith. So we are hoping that we are seeing a change down there. I am satisfied, from what you have said today, that we have some changes in attitude, and we want to help you if you want to do your job. We want to help you.

Ms. Steiger. Thank you, sir. I suppose the proof is in what you do, but I have got an awful lot of folk to answer to. You know, Wisconsinites take credit for the FTC.

Mr. Smith. Right.

Ms. Steiger. And they say that it was really the idea of Bob LaFollette, and not Brandeis and the others. LaFollette pushed Brandeis until Brandeis was worn down and went to the President. And furthermore, its first chairman, Chairman Davies, was a Wisconsinite.

Mr. **Smith**. Yes.

Ms. **Steiger**. So I have got a whole State to answer to if this goes sour.

Mr. **Smith**. Yes.

Thank you very much, Chairman Steiger for your testimony today.

[The following questions were submitted to be answered for the record:]

Questions Submitted by Congressman Smith

Impact of Sequestration in FY 1990

QUESTION: What was the amount of the sequester for your appropriation for FY 1990, and what was the impact of the sequester on your activities?

ANSWER: The fiscal 1990 sequester for the FTC was $964,000. The sequester reduced proportionally our budget authority ($704,000) and our fee income funding ($260,000).

This funding reduction is the equivalent of reducing 20 workyears. Because Congress revised the Commission's funding structure in fiscal 1990, and by doing so increased the authorized funding through the collection of fees, the sequester's impact is that it reduces the FTC's ability to achieve this newly mandated program activity level.

Request to OMB

QUESTION: What was the Commission's request to OMB for FY 1991 in dollars, positions, and workyears for each activity?

ANSWER: The Commission requested of OMB a fiscal 1991 budget of 1004 workyears and $77,730,000. This request was divided among its two missions as follows: Maintaining Competition, 480 workyears and $37,517,000; Consumer Protection, 524 workyears and $40,213,000.

QUESTION: What items were eliminated from this request by OMB?

ANSWER: The final request for fiscal 1991 approved by the Commission and OMB reflected a reduction of 34 workyears and $740,000 from the original Commission request. The workyear reduction was almost evenly divided between the Maintaining Competition and Consumer Protection missions. The reduction would not permit our expansion of enforcement activities as fast as the Commission supports.

Status of Authorization

QUESTION: What is the status of the FTC authorization legislation?

ANSWER: The Senate passed S.1249, the FTC authorization bill, on November 9, 1989. In the House, staff of the Subcommittee on Transportation and Hazardous Materials of the Energy and Commerce Committee have said it is their intent to hold hearings and move an authorization bill this year.

QUESTION: I see that the Commission is again proposing to eliminate the restrictions contained in the FTC Improvements Act of 1980 that have been included in the Appropriations Act for a number of years. Since the Commission has not had an enacted authorization since FY 1980, why do you think that an authorization can be enacted for FY 1991 so that these provisions can be eliminated from the appropriations language?

ANSWER: These provisions were originally contained in the 1980 FTC Improvements Act. These provisions are requested to be deleted because they are either addressed in the pending House and Senate authorization bills or the provision is moot such as the discontinued public participation in rulemakings. Furthermore, it is felt that the proper place for these provisions is in an Authorization Act not an Appropriation Act. Their removal from the appropriation act may give more impetus to passage of an authorization act.

Filing Fees

QUESTION: In the FY 1990 Appropriations Act, Congress gave the Commission the authority to assess and collect a filing fee of $20,000 for each pre-merger notification report. The appropriations language also provided that the fees collected, which were estimated to be at least $40 million, should be divided equally between the Commission and the Anti-Trust Division of the Justice Department. Any fee collections above $40 million would be deposited in the Treasury of the United States. What has been your experience, to date, with this fee program, and what is your current estimate of the fees to be collected in FY 1990?

ANSWER: The fee program went into effect on November 29, 1989. As of February 28, fees collected were $7,440,000. Filings for the month of February are down by 33 percent from February of last year. If this trend continues and adjustments are made for seasonal variations, the projection of fee collections would be about $28,000,000, $12,000,000 less than the planned income. Half of the total collections, or $14,000,000, would go to the FTC's programs.

QUESTION: Why has there been a decrease in merger activity?

ANSWER: The reasons for the apparent downward trend in merger filings are unclear. Possible factors that may contribute to the decline are: the challenge to certain financing techniques; a cyclical business trend; or, the imposition of the filing fee itself.

It is important to note that the decline in merger filings does not reduce Commission workload and resource requirements. This is because the merger review workload is driven more by the complexity of competitive issues represented by the filings than the total number of merger filings. One must consider the difference between non-competitive mergers and competitive mergers. Non-competitive mergers (or mergers of companies not competing in the same market) appear to represent a sizeable portion of the filings that have decreased. These filings normally do not require extensive review by staff. However, competitive mergers (or mergers of companies in the same market) usually require more analysis and they appear to have grown as a proportion of mergers.

This may be because some firms that financed earlier, non-competitive acquisitions by leveraged buyouts are now experiencing financial difficulties. To raise cash, these firms are selling off subsidiary assets. They seem to be selling these assets to competitors in the same market, perhaps because they can get the highest price for the assets from a competitor. Thus, our workload is remaining constant or even growing. As an example, the number of second requests (for additional information) issued in our merger reviews have increased this year over the same period last year despite the decline in filings.

QUESTION: What will be the impact on the Commission's activities if you do not collect the estimated $20 million in fees?

ANSWER: Failure to collect the full $20 million in fees would require the FTC to not only reverse its planned increased activity level, but it would also reduce activity levels below those of prior years. After 10 years of coping with cumulative budget reductions of about 50 percent, the Commission can no longer absorb any reductions without reducing its program effort. The impact of any fee shortfall is magnified because of the short time left in the fiscal year in which to adjust spending.

These administrative actions would be required to avoid a deficiency, if only the $14,000,000 projected fee income is realized in fiscal 1990:

1. Furlough of all staff(it is too late to recover dollars from a reduction-in-force), after taking savings in the items detailed below;

2. Cancellation or deferral of hiring commitments made to people who have not yet reported to work (over 50 people);

3. Implementation of a hiring freeze for the balance of the fiscal year;

4. Cancellation or deferral of all but the most urgent of contract activity supporting investigations;

5. Reduction of investigative travel by 50 percent; and,

6. Deferral of all required computer replacements, effectively denying workstations to portions of the staff now using them, and deferral of all ADP system development work.

These actions would curtail all existing investigations and forestall any efforts to develop new initiatives. The effect on morale of the Commission, painstakingly rebuilt after the reduction-in-force and early retirement of some 50 employees last year, would be devastating. It would take considerable time, perhaps years, to rebuild staff and regain our current enforcement level, let alone expand our enforcement activities.

QUESTION: Will you be requesting a supplemental to make up for a loss in fee revenue?

ANSWER: The Commission will request supplemental funding for fiscal 1990 to make up for the projected loss in fee revenue. The projected fee shortfall is too great for the Commission to absorb without serious short and long-term impacts on its antitrust and consumer protection programs.

QUESTION: Why are you assuming fee collections of $20 million for the FTC for FY 1991 since you are projecting fee collections in that amount will not materialize in FY 1990?

ANSWER: The fiscal 1991 request was developed prior to the emergence of the downward trend in fees.

While fees in fiscal 1991 will be collected over the full 12 months instead of only 10 months in fiscal 1990, the projected income based on the current declining trend, indicates the fiscal 1991 fee income to be about $17 million, a $3 million shortfall. This is the equivalent of a 50 workyear reduction, and if not funded, would result in a reduction in the Commissions program from the fiscal 1990 level and perhaps even from the fiscal 1989 level.

When Congress passed the fee program beginning in fiscal 1990, it contemplated replacing $15,000,000 in direct appropriations with fees, and $5,000,000(for a total of $20,000,000) was to be used for mandated growth in program activity. For fiscal 1991, the full $20,000,000 is assumed in the funding base, therefore requiring the Commission to collect the full amount, rather than the $15,000,000, to maintain its base program. This establishes a significantly greater reliance on the full collection allowed, and places the FTC in a more uncertain position to plan and maintain stable operating programs.

QUESTION: You are also requesting a language change for FY 1991 which would permit the fees collected to remain available until expended. What is the need for such a language change?

ANSWER: By allowing the fee collections to remain available until expended, the Commission may carry forward unused funds from one year into a year in which fee collections may not be fully realized. In this manner, the Commission's programs would be less subject to the possible cyclical nature of merger activity.

Policy Initiative

QUESTION: The justifications indicate that the Commission has embarked on a program of increased communications with consumers, businesses, and regulators. What have you learned so far from this initiative?

ANSWER: At the outset of my term, I organized a series of meetings with consumer and business groups. Each group represented a wide range of organizations and received the opportunity to make presentations at two separate meetings devoted to consumer and business interests, respectively. These four meetings were also attended by a majority of the Commissioners. I made no effort to structure the agenda of these meetings and, as a consequence, I believe my colleagues and I were given the benefit of a wide spectrum of concerns relevant to the work of the FTC in the 1990s. The Commission has recently made significant progress in improving cooperation with State Attorneys General and other law enforcement agencies at the federal, state, and local levels. A new executive Working Group for Federal-State Antitrust Enforcement, including representatives of the FTC, the Department of Justice, and the states, met for the first time in October 1989 and again last month. The new group has provided a useful forum for improving federal-state cooperation in antitrust enforcement.

A multitude of other contacts, some through the National Association of Attorneys General, have demonstrated that better information sharing and cooperation can prevent wasteful duplication of effort and minimize inconsistencies in policies in both antitrust and consumer protection matters. I have instructed our General Counsel's office to develop recommendations on how information sharing can be improved and anticipate new initiatives in this area during the months ahead.

Program Increase

QUESTION: The budget includes a program increase of $891 thousand and 20 workyears, of which $530 thousand and 12 workyears is in the Consumer Protection mission and $361 thousand and 8 workyears is in the Maintaining Competition mission. What criteria did you use to allocate this program increase between the two missions?

ANSWER: The Commission continually reviews program needs in both antitrust and consumer protection areas and determines the allocation. The allocation for fiscal 1991 maintains the same approximate size of the two missions as established in fiscal 1990, when 54 workyears were added to the Competition mission and 2 workyears were added to the Consumer Protection mission. This is roughly 48 percent antitrust and 52 percent consumer protection.

QUESTION: I understand that four of the additional positions requested in the maintaining competition mission are for merger activity. If the number of mergers originally anticipated for FY 1990 is not going to be realized, why do you need additional resources in the merger program?

ANSWER: Notwithstanding the fact that merger filings are down somewhat this year, it is not at all clear that the number of filings are indicative of the number of mergers that present competitive concerns. Although it is difficult to extrapolate from a brief period of time, in fact, we have issued more "Requests for Additional Information" and taken more enforcement actions so far this year than in the comparable period of last year. The Commission's merger staff is currently overworked with the present and foreseeable merger caseload. Moreover, the Commission has placed a special emphasis on merger enforcement in view of criticisms of government laxity in this area over the past few years.

QUESTION: The mergers and joint-ventures program will receive an additional 29 work years during FY 1990. If the number of mergers is expected to be less than originally anticipated in this fiscal year, why are you allocating such a large share of the additional work years to this activity.

ANSWER: Again, the merger staff was and is severely overtaxed in evaluating and prosecuting acquisitions that present serious antitrust questions. The increased work year allocation recognizes the critical need to add human resources to this important area of Commission enforcement. In the Hart-Scott-Rodino merger review program, staff must work under rigid deadlines to evaluate and make recommendations for Commission action on mergers and acquisitions that present difficult competitive and economic issues.

Additionally, there are reasons to believe that increased Commission scrutiny may be required. Again, more information requests about transactions have been issued this year in comparison to last year. Furthermore, leveraged buy-outs in previous years have created consolidated firms with serious short-term cash shortages. Such financing constraints may require highly-leveraged firms to shed operations and concentrate on a few key areas. Sales of subsidiary assets to raise funds may engender a large number of troublesome horizontal acquisitions that will have to be reviewed carefully. The Commission's staff has already begun to evaluate a number of HSR filings that present these types of cases.

QUESTION: The budget justifications speak of the Commission's plans to initiate a number of new investigative, law enforcement, and advisory activities with the additional resources requested for the maintaining competition mission. Please summarize the activities for the Committee.

ANSWER: We have already begun a number of new investigative, law enforcement and advisory activities that will require additional funding to complete. Most are in the preliminary investigative stages while a few are almost ready for Commission consideration as to whether to institute law enforcement proceedings. In addition, we are considering whether to initiate new investigations which will also require additional funding.

Among the matters we are investigating already and those we are considering investigating are agreements among competitors that involve: (1) price and output restrictions, using and further refining the analysis of the Supreme Court's NCAA opinion, (2) limiting the avenues of distribution for their products, (3) imposing conditions on competing in a market that may unreasonably exclude a class of new entrants from the market, and (4) limiting the way in which they compete in the market for a needed input.

We are also examining the possibility of anticompetitive conduct through the use of patent fraud (recommendation almost complete), sham litigation and threats of sham litigation (investigation not yet opened), improper information exchanged during abortive merger negotiations (investigation not yet opened) and exclusive distributorship agreements that may result in an elimination of interbrand competition (investigation not yet opened). We also have current investigations regarding resale price maintenance, the members of a trade association's alleged conspiracy to deny commercial relationships needed by a new and innovative competitor, and a firm's attempted monopolization of a market related to one in which it has market power.

Each of these practices have had, or are likely to have the effect of increasing prices for numerous products to the ultimate consumer.

In addition, we are preparing advisory opinions in numerous areas. For example, we have been asked to advise as to the appropriateness of certain changes to the disciplinary rules of a professional trade association and to advise on the appropriateness of another trade association implementing rules concerning certain business activities of its members.

Management Initiative

QUESTION: Has the Commission completed its program to put in place office automation, voice, data communications, and ADP systems for Commission staff? If so, what plans do you have to insure that these resources will be used efficiently?

ANSWER: The Commission has virtually completed the comprehensive plan adopted in 1985 to improve information systems support for the Commission and its staff. New voice and data communications systems have been installed; the Commission's central computing facility has been upgraded; most employees now have standard, pc-based workstations at their desks, networked with printers and other computers; and a wide-ranging training program has been put in place to train and support staff in using systems in their work.

The Commission's current plans for assuring that these and other information resources will be used efficiently are laid out in the program justification submitted to Congress in connection with our fiscal 1991 budget request. Among other things, we are continuing an emphasis on delivering appropriate training and support for all Commission staff, to maximize the effectiveness with which they realize the potential of existing resources; and with special attention on economy, we are continuing to upgrade capabilities and systems,and to acquire new resources, to improve the quality and to meet the expanding needs of the Commission for effective information systems support.

Workyears by Mission/Program

QUESTION: I understand that the Commission plans to add 56 workyears by the end of FY 1990; 54 of these will be allocated to the Maintaining competition area, and only two will be allocated to the Consumer Protection area. Why has the Commission allocated these additional resources so unevenly between the two missions of the Commission?

ANSWER: The change between fiscal 1989 and 1990 is a one time adjustment due to unusual and unplanned workyear usage in fiscal 1989. In fiscal 1989, budget reductions forced the Commission to conduct a reduction-in-force and to impose a hiring freeze. These actions led to a greater and unintended reduction in workyears in the Maintaining Competition mission than in the Consumer Protection mission. Given the growth in merger and other antitrust workloads, the Commission in fiscal 1990 determined that the Maintaining Competition mission needed a greater increase in resources. The two mission allocations in fiscal 1990 restored the two missions to their historical proportions, roughly 48 percent Competition and 52 percent Consumer Protection.

Questions Submitted by Congressman Regula

Health Care

QUESTION: Has the Commission taken any action to review current antitrust laws concerning their disruptive impact on in-house hospital physician review boards and professional association peer review?

ANSWER: The Commission has been active in enforcing the antitrust laws in the health care area and believes that current law does not pose any threat to legitimate peer review. Peer review programs can be extremely valuable to consumers to ensure the quality of health care services, and when conducted for legitimate purposes, peer review programs do not violate the antitrust laws. There is a danger, however, that peer review programs could be abused for anticompetitive purposes. Entrenched local doctors could, for example, use the peer review process to deny hospital privileges to new doctors simply because they pose a competitive threat. Such an abuse obviously would be harmful to consumers, and the antitrust laws continue to be an important tool to prevent it.

Congress recently reviewed and amended the antitrust laws to ensure that health care professionals face no unreasonable antitrust risk from the peer review process. In 1986 Congress enacted the "Health Care Quality Improvement Act," which provides immunity from antitrust damages for peer review that meets the standards set forth in the Act. In brief, the immunity attaches to peer review proceedings based on competence or professional conduct where the disciplinary action was taken in the reasonable belief that it was in furtherance of quality health care; a reasonable effort was made to ascertain the facts of the matter; and procedural safeguards (notice and a fair hearing) were provided. Only last month, a West Coast hospital and participating physicians used the 1986 Act to establish their complete immunity to the antitrust claims brought against them by a doctor suspended after a peer review proceeding. See Austin v. McNamara, No. 88-04268 (D.C. Cal., Feb. 12, 1990). The law now strikes a good balance between protecting legitimate peer review and still preventing anticompetitive abuse, and no further review of the antitrust laws appears to be necessary at this time.

The Commission and its staff actively educate the public on the importance and proper role of peer review. We issue advisory opinions approving peer review programs of professional societies. And we reiterate that message through speeches and informal advice to interested parties. We also encourage those desiring advice on the legality of proposed peer review programs to consult with us.

QUESTION: In the purchase of drugs and pharmaceuticals there should be, and in many cases is, a mechanism to check the patient's current drug usage to prescribed new drugs which could result in a dangerous, if not lethal combination. Has FTC taken any efforts to encourage the further development of such mechanisms or a coordinated computerized clearinghouse such as conceived under the repealed catastrophic care law? If not, do you plan to conduct such an inquiry?

ANSWER: Yes. The Commission's Bureau of Competition has taken steps to facilitate the use of mechanisms that protect against adverse drug interactions. The Bureau investigated and obtained the elimination of a state licensing board restriction that prohibited the use of computerized data bases for that purpose.

MONDAY, MARCH 5, 1990.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

WITNESSES

RONALD F. LEHMAN, II, DIRECTOR, U.S. ARMS CONTROL AND DISARMAMENT AGENCY

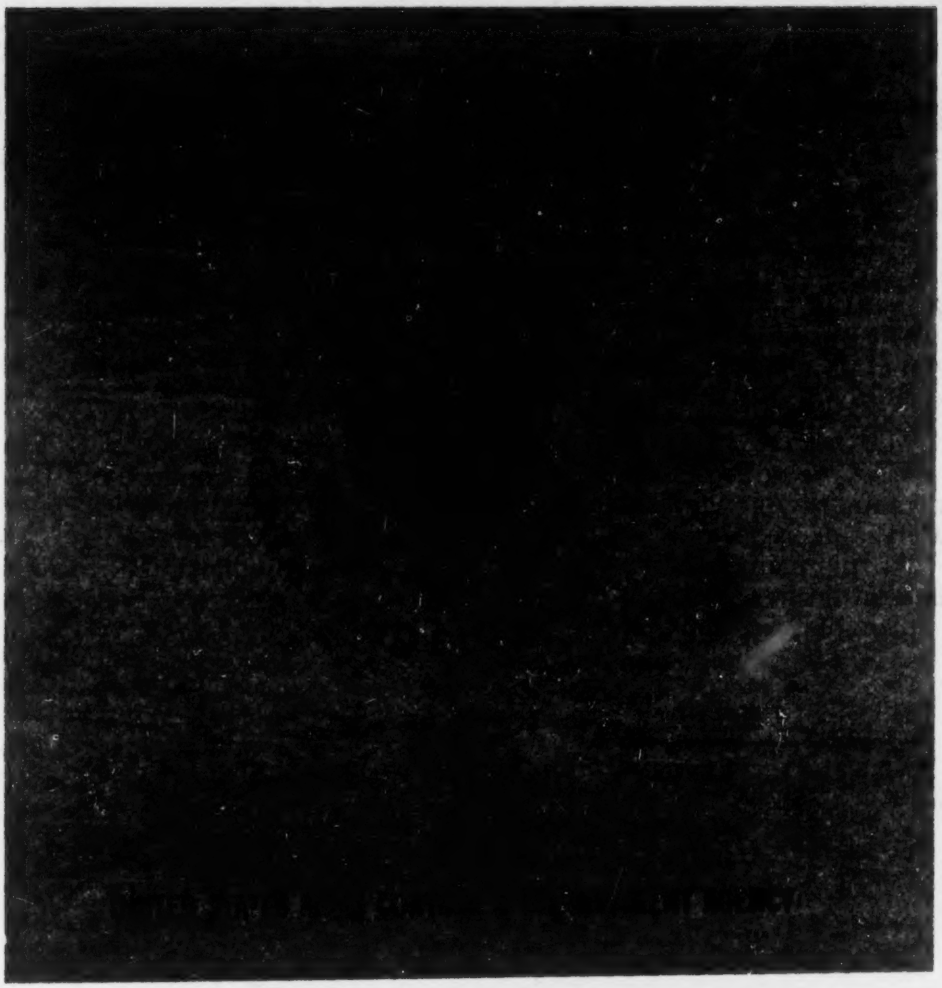
WILLIAM J. MONTGOMERY, ADMINISTRATIVE DIRECTOR, U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Mr. CARR. I want to call the hearing into session.

First we will consider the request for the Arms Control and Disarmament Agency. They are requesting $30,000,000 for fiscal year 1991, a decrease of $3,425,000 from the 1990 enacted level.

At this point in the record we will insert the budget justifications submitted in support of this request.

[The justifications follow:]



FY - 1991 BUDGET

Appropriation: ARMS CONTROL & DISARMAMENT ACTIVITIES

CONGRESSIONAL SUBMISSION

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

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INTRODUCTION

The accelerated pace of on-going negotiations, together with the enormous changes that are taking place in Eastern Europe will greatly influence the direction that arms control will take in the 1990's. These events present new challenges to the U.S. Arms Control and Disarmament Agency (ACDA) as it seeks to ensure that the arms control efforts of the U.S. lead to enhanced stability and security for the United States and throughout the globe.

Arms control took on new character and immediacy in early 1989. The President personally took the lead in the international arena with respect to conventional arms control by setting parameters for dramatic reductions in conventional weapons in the European "Atlantic-to-the-Urals" zone. The momentum was heightened further when, at a summit meeting of Western leaders in Brussels, all supported the President's additional proposals for reduction and limitation of Conventional Forces in Europe. NATO has set in motion a process that is intended to yield a completed treaty before the close of 1990.

On the U.S./Soviet front, the September 1989 meeting between Secretary of State Baker and Foreign Minister Shevardnadze in Wyoming produced several key understandings and agreements that lent impetus to the negotiations on strategic arms and on nuclear testing protocols. With respect to the difficult issues surrounding the development of a global, verifiable ban on chemical weapons, the U.S. and USSR entered into a bilateral agreement concerning exchanges of data, a verification experiment, and visits to chemical weapons related sites.

Further, in the area of Chemical Weapons (CW), the President proposed several dramatic initiatives in his statement to the United Nations General Assembly (UNGA) which were aimed at stimulating specific action on CW arms control and energizing the multilateral negotiations in the Conference on Disarmament (CD). ACDA will be particularly instrumental in these future negotiations leading to the destruction of the existing stockpiles of chemical weapons and ultimately to global, verifiable ban on the production or possession of these weapons.

The degree of complexity and the far reaching impact of today's arms control negotiations require a more intense and creative approach to the monitoring and verification of compliance with international agreements. ACDA is uniquely positioned to provide the distinct and realistic insight necessary to place the U.S. in a position of strength during the upcoming bilateral and multilateral negotiations.

Major efforts continue to prevent the spread of nuclear weapons, CW and ballistic missiles to additional countries. The President set the tone early in his Administration by declaring to the Congress in February that our diplomacy must work every day against the proliferation of weapons. The nuclear nonproliferation regime is well established and consists of treaties, international safeguards to ensure that peaceful nuclear facilities are not used for nuclear weapons, and export controls to ensure that international nuclear commerce does not contribute to proliferation risks. ACDA will continue to ensure that nonproliferation efforts aimed at preventing the spread of weapons are pursued with vigor and creative insight.

The ever-changing face of arms control, coupled with a politically sensitive and volatile international environment, will place dramatic demands on ACDA in the coming year. Consequently, ACDA must seek additional financial and personnel resources if it is effectively and efficiently to carry out its Congressional mandate.

MISSION STATEMENT

By statute, the United States Arms Control and Disarmament Agency (ACDA) must have the capacity to provide the essential scientific, economic, political, military, psychological, and technological information upon which realistic arms control and disarmament policy must be based. ACDA shall have the authority, under the direction of the President and the Secretary of State, to carry out the following primary functions:

(a) The conduct, support, and coordination of research for arms control and disarmament policy formulation;

(b) The preparation for and management of U.S. participation in international negotiations in the arms control and disarmament field;

(c) The dissemination and coordination of public information concerning arms control and disarmament; and

(d) The preparation for, operation of, or as appropriate, direction of U.S. participation in such control systems as may become part of U.S. arms control and disarmament activities.

To accomplish its mission ACDA is organized by bureaus which address major policy areas such as bilateral negotiations, multilateral negotiations, non-proliferation and verification. The Agency's accomplishments and initiatives are further spelled out in detail in the subsequent sections of this submission.

APPROPRIATION LANGUAGE

ARMS CONTROL AND DISARMAMENT AGENCY

Federal Funds

General and special funds:

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $55,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq), [$33,425,00] $30,000,000.

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

FY-1991 SUMMARY OF BUDGET REQUEST

ARMS CONTROL AND DISARMAMENT ACTIVITIES

	FTP	AMOUNT
FY-1990 APPROPRIATION	194	$33,425,000
FY-1991 APPROPRIATION REQUEST	204	$30,000,000
INCREASE/DECREASE	+10	- 3,425,000

EXPLANATION OF REQUIREMENTS
($000)

	FY-1990	FY-1991	INCREASE OR DECREASE
PROGRAM OPERATION	$33,225	$28,000	- 5,225
EXTERNAL RESEARCH	200	2,000	+ 1,800
	$33,425	$30,000	- 3,425

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

FY-1991 ANALYSIS OF BUDGET REQUEST
($000)

FY-1990 APPROPRIATION		$33,876
Sequestered Amount:		451
FY-1990 APPROPRIATION (after sequester)		$33,425
Non-recurring Items:		
Base Transfer of Overseas Administrative Support to the Department of State- Geneva Allotment (3,790), Interpreters (900) Reimbursable Personnel (1,896), Geneva Network (1,708), Delegation Support (Geneva,FAAS) (509), Delegation Support (Washington) (372)	-9,175	
FY-91 APPROPRIATION BASE		24,250
Adjustments to base:		
January 1990 pay raise & other pay adjustments	1,330	
Other estimated increases - rent (98), supplies & equipment (41), travel (264), printing services (11), SCIF (500), LAN (110), maintenance & repair services (119), Inspector General services (35), mail services (250), and other services (278)	1,706	
FY--91 ADJUSTED APPROPRIATION BASE		27,286
Program Increases:		
10 additional positions	914	
External Research	1,800	
FY-91 APPROPRIATION REQUEST		$30,000

EXPLANATION OF ADMINISTRATIVE TRANSFER

FROM ACDA TO THE DEPARTMENT OF STATE

In order to eliminate duplication of effort in Geneva and to bring the Geneva administrative operations in line with worldwide practices under the Core/Foreign Affairs Administrative Support (FAAS) system, primary administrative support in FY-1991 for arms control delegations in Geneva is being transferred from ACDA to the Department of State (State). This accounts for the transfer of an estimated $9,175,000 to State.

Currently, State supports the U.S. Mission in Geneva through its Core/FAAS by providing the day-to-day operations of the U.S. Mission, such as security, personnel, budget and fiscal, communications and other general building maintenance requirements for all agencies represented in Geneva. ACDA contributes financially to this support function and also maintains an independent administrative office to provide the arms control delegations with logistical support such as securing accommodations for the negotiators while on TDY, providing appropriate transportation to and from U.S.-Soviet meetings, and facilitating meetings as well as other quick turnaround requirements of the delegations.

The two operations work in tandem yet provide distinct and separate functions. In order to streamline operations these two functions will be combined and managed by State. The composition of this transfer is listed as follows:

BASE TRANSFER FROM ACDA TO STATE
($000)

Geneva Allotment (Admin. costs for rent, motor pool, local hire, supplies and equipment, and other services)	$3,790
Reimbursable Personnel (Delegation negotiators currently on detail from State)	1,896
Geneva Network (ACDA-provided wordprocessing capabilities to the various delegations)	1,708
Interpreters (reimbursable detailees from State)	900
Delegation Support (Geneva/FAAS)	509
Delegation Support (Washington - SS/EX support)	372
Total, Base Transfer	$9,175

EXPLANATION OF PROGRAM INCREASES

INCREASED PERSONNEL

In FY-1991, ACDA is requesting an increase in personnel of 10 positions, bringing the total full-time permanent employee count to 204. The requirement for these positions are as follows:

Bureau of Multilateral Affairs

Three (3) Foreign Affairs Specialists (GS-12/14) - to meet the increased arms control issues being addressed in the international arena; to meet the President's target for completion of a conventional forces reduction agreement, support new chemical weapons initiatives and ensure representation at other bilateral and multilateral negotiations

Bureau of Verification & Intelligence

Two (2) Physical Scientists (GS-13/15) - to extend essential verification assessments to all critical negotiation and treaty areas and provide direct support by officers with verification and analytical experience to the negotiating delegations

Bureau of Strategic Programs

Foreign Affairs Specialist (GS-11/13) - to provide analytical preparation for START implementation and follow-on negotiations

Bureau of Nuclear & Weapons Control

Foreign Affairs Specialist (GS-14) - to support the expanded role in arms and technology transfers, particularly of ballistic missiles and chemical weapons

Office of the General Counsel

Two (2) Attorney Advisors (GS-12/13) - to provide adequate legal support to the increased negotiating delegations, such as CFE, CSBM, CD/CW, UNDC and applicable treaty review conferences

Office of Administration

Administrative Assistant (GS-12) - to provide for the increased administrative and logistical support demands of the Agency as well as responding to the increased reporting and compliance requirements of the Executive and Legislative branches

EXTERNAL RESEARCH

For FY-1991 ACDA has requested an increase of $1.8 million over the FY-1990 level for external research. This increased requirement is necessary to provide for numerous studies and analyses on chemical weapons, verification, compliance and other arms control issues under consideration by the Administration.

A further breakout of this requirement is identified at page 34, under the heading, "ACDA External Research Program". This breakout currently allocates the funding resources by bureau, however, as we approach FY-1991 we will be better able to identify these requirements.

FY-1991 Funding Request

The Fiscal Year 1991 budget and staffing requests of the U.S. Arms Control and Disarmament Agency are $30,000,000 and 204 permanent positions respectively. This budget request consists of two main elements: operating expenses at a level of $28,000,000 and an external research program of $2,000,000. This proposed budget which is $3,425,000 less than the FY-90 funding level, reflects the transfer of primary administrative support for arms control delegations in Geneva from ACDA to the Department of State. This transfer of delegation support responsibilities represents management's efforts to curtail duplication of administrative resources overseas resulting in efficiencies of scale accordingly. The estimated transfer of this support is $9,175,000 and includes provisions for delegation personnel (salaries and expenses), interpreter services, word processing and other communication capabilities, and general administrative services such as travel and per diem, accounting, security, secretarial support, procurement and contracting.

On the other hand, because of the increasing number and size of the various negotiation delegations, ACDA has had difficulty maintaining all its current requirements. This is particularly true in the areas of both legal and administrative support, verification assessment and compliance analysis. Therefore, ACDA is requesting an additional 10 positions, and also is requesting an increase of $1,800,000 in its external research capabilities to support studies on chemical weapons, verification, compliance and other arms control issues under consideration by the Administration.

FY-1990 Funding

ACDA's FY-90 appropriation has been approved in the amount of $33,425,000 with a personnel complement of 194 full-time permanent positions. However, within this amount ACDA must satisfy unanticipated expenditures by ACDA for the 1990 Nonproliferation Treaty Review Conference of up to $750,000 and FY-1990 pay raises effective January 1, 1990 for GS and SES/Executive Level personnel. These expenses along with the new requirement resulting from the recent agreement between the US/USSR to support unfunded chemical weapon inspection visits will reduce funding of ACDA's ongoing activities accordingly.

BILATERAL NEGOTIATIONS

Bilateral Negotiations	FY-90	FY-91	Diff.
Full-time permanent personnel	28	29	1
Amount (dollars in thousands)	9,798	5,139	-4,659

The Bureau of Strategic Programs (SP), responsible for bilateral negotiations, has concentrated its negotiations and discussion efforts with the Soviets in the following forums: the two components of the Nuclear and Space Talks (NST); Strategic Arms Reduction Talks (START); the Defense and Space Talks (DST); Special Verification Commission (SVC), INF Treaty implementation and the Standing Consultative Commission (SCC), and the ABM Treaty Review. Continuing negotiations in these areas escalate the need to enhance resources in bilateral negotiations. ACDA anticipates that the two NST components, the SVC, and the SCC will be in Geneva for the better part of the the year.

In addition, to these negotiating forums both in Geneva and backstopping efforts in Washington, other SP functions include:

-- anticipate and develop rapid negotiating responses in remaining areas of the NST negotiation;

-- support completion, ratification, and implementation of a START treaty;

-- support implementation of the INF Treaty; and, provide policy guidance to the process of monitoring, inspection, and verification of the obligations assumed under the Treaty;

-- support work on the D&S negotiations and continue studying questions related to a future transition to a strategy of deterrence based on increased reliance on strategic defense and the role of arms control in such a transition;

-- support analytical work on other arms control issues related to defense and space;

-- coordinate closely with the State and Defense Departments in developing U.S. policy on short-range nuclear forces and dual capable systems that meets NATO's political and security interests;

- -- monitor SDI cooperation with the Allies;
- -- work closely with other agencies in the area of civil space application to ensure that US national security and arms control interests are fully taken into account;
- -- consider steps to resolve the many issues concerning Soviet noncompliance with arms control commitments including the Krasnoyarsk radar; and,
- -- participate actively in consultations with Allies, neutrals and Eastern European countries to ensure their understanding of US arms control objectives and policies.

START

Following an extensive USG review of defense and arms control issues, the START Negotiating Group held two lengthy rounds of negotiations in Geneva during 1989: Round XI from June 22 to August 7 and Round XII from September 29 to December 8. Throughout the year, building on progress achieved at the Reykjavik, Washington and Moscow Summits, the two sides focused on the Joint Draft Text of a START Treaty, its accompanying Protocols and Memorandum of Understanding as well as on US initiatives for verification and stability measures that could be put into effect prior to completion of a START Treaty. The negotiations were conducted very intensively, making extensive use of working groups which dealt with specific aspects of the Treaty and associated documents. At the end of the year, progress had been made in eliminating brackets (areas of disagreement) in this lengthy document. Numerous differences in a variety of areas, however, remain.

The Strategic Programs (SP) Bureau and other elements of ACDA were deeply involved in supporting these negotiations throughout 1989. SP represented ACDA in the various interagency groups which analyzed and attempted to resolve issues relevant to the negotiations. In particular, SP chaired the START interagency Backstopping Committee which is principally responsible for providing day-to-day guidance to the US START Delegation. Members of the SP staff also served on the Delegation in both expert and secretarial roles.

The START negotiations resumed early in 1990 and will be in Geneva for the better part of the year. In addition, major analytical efforts will be required in Washington to support the ongoing negotiations.

Defense and Space

During 1989 the Defense and Space (D&S) negotiations also held two sessions spanning most of the year. As a result of the Wyoming Ministerial meeting held on September 22-23, 1989, the United States and the Soviet Union agreed that the completion and implementation of a START Treaty was not contingent upon reaching a Defense and Space agreement. The Soviets have indicated, however, that they claim a right to withdraw from START if they determine that the US has gone beyond the ABM Treaty as they define it. The Soviets have proposed an agreed US/Soviet understanding to that effect, which the US opposes. Also at the Wyoming Ministerial, the Soviets stated that they no longer demand a commitment not to withdraw from the ABM Treaty, and the sides agreed to drop this approach. In Round XII, which concluded on December 8, 1989, the U.S. tabled a revised Defense and Space Treaty, under which either Party would be permitted to give notice of its intent to deploy strategic missile defenses that are beyond the limitations in the ABM Treaty. Upon the giving of such notice, the Parties would begin intensive discussions of strategic stability concerning the specific measures proposed for a cooperative transition. Three years later, either Party could give six months notice of its decision to deploy strategic missile defenses, after which the ABM Treaty would terminate, unless the Parties agreed otherwise. During Round XII, the Soviets also accepted an invitation made by the U.S. at the Wyoming Ministerial involving a visit by Soviet experts to two US SDI research facilities.

The staff of the Strategic Programs (SP) Bureau and other elements of ACDA were extensively involved in preparation for, participation in, and support of these talks throughout 1989. The Strategic Programs Bureau chaired the Interagency Backstopping Group on Defense and Space, which provides primary substantive support to the U.S. D&S Delegation. The Bureau's staff prepared extensive political and technical analyses in support of policy decisions in Washington. In addition, ACDA provided representation and organizational support for the negotiations in Geneva. All of these responsibilities add considerably to the ACDA workload, especially that of the Bureau of Strategic Programs.

The Defense and Space negotiations resumed early in 1990 and will be in Geneva for the better part of the year. In addition major analytical efforts will be required in Washington to support the ongoing negotiations.

INF Implementation

During 1989 the Special Verification Commission (SVC) -- a body created by the INF Treaty to agree upon measures to improve the viability and effectiveness of the Treaty -- has met three times in Geneva in an effort to conclude agreement on a "Memorandum of Agreement" on implementing arrangements for the INF Treaty. This document was signed during the last of those three sessions, in December 1989. SP chaired the SVC support group, which performs both working group and backstopping functions in support of the SVC. SP has been the focal point within the policy community for INF implementation. The U.S. Representative to the SVC reports to the ACDA Director and is administratively supported by ACDA.

In 1990, we anticipate that the SVC will continue to be involved in ongoing discussions with the Soviets about Treaty implementation and compliance issues. SP will continue to play a key role in chairing the SVC Support Group. In addition, SP is likely to become more actively involved in NATO issues concerning short-range nuclear force (SNF) modernization and SNF arms control.

Standing Consultative Committee and ABM Treaty Review

Other bilateral arms control activities in 1989 included two regular sessions of the U.S.-USSR Standing Consultative Commission, the five-year ABM Treaty Review Conference, and a US-Soviet ad hoc meeting of experts on the Krasnoyarsk radar. ACDA, and in particular, SP has had an important role in the preparation for, and conduct of the sessions of the SCC, the ABM Treaty Review Conference and the Experts Meeting, as it has had with the NST negotiations. The Director of ACDA was the head of the delegations to both the ABM Treaty Review Conference and the Experts Meeting. ACDA professional staff members lead the interagency work on policy formulation and backstopping, and provide representatives and support staff for these bilateral sessions. Also, the Office of the U.S. Commissioner to the SCC is situated in ACDA to provide full-time continuous support for the US Commissioner and the Secretariat, the leadership and nucleus of the US Component.

MULTILATERAL NEGOTIATIONS

Multilateral Negotiations	FY-90	FY-91	Diff.
Full-time permanent personnel	24	27	3
Amount (dollars in thousands)	2,579	3,462	883

ACDA is responsible for the preparation of guidance for, and backstopping of, as well as the logistical support of U.S. Delegations to the Conference on Disarmament (CD) in Geneva, the First Committee of the UN General Assembly (UNGA), and the UN Disarmament Commission (UNDC). The Multilateral Affairs Bureau handles these issues for the Agency.

The CD meets for a total of about six months each year, with sessions from early February through April, and June through August. The UNDC meets for three-four weeks every May, and the UNGA First Committee meets for two months each fall.

The CD is the principal international forum for multilateral discussion and negotiation of arms control agreements. Its primary focus of attention is the negotiation of a global ban on chemical weapons, but the CD also considers many other issues, including outer space arms control, nuclear testing, radiological weapons, a comprehensive program for disarmament and negative security assurances. The UNGA and UNDC address these and other issues such as nuclear weapons free zones and conventional arms control.

ACDA provides the U.S. Representative to the CD, who is also the U.S. Representative to the First Committee and the UNDC. ACDA also provides much of the staffing for these delegations and has primary financial responsibility for the CD.

Chemical weapons (CW) negotiations at the CD and the supplementary U.S.-Soviet bilateral discussions on CW are a primary responsibility of the Multilateral Affairs Bureau. This past year was one of great activity in this area. Two international conferences were held, one in Paris and one in Canberra, Australia. The multilateral CD negotiations have been divided into five working groups which meet constantly during the six months of the CD and go into expert intersessional negotiations for a total of four-five weeks in December and January. This year, four sessions of the U.S.-Soviet bilateral negotiations were held, reflecting the new initiatives proposed, and agreements reached, at the September meeting of U.S. and Soviet Foreign Ministers and the Malta Summit. The U.S. Representative to the CD leads the U.S. delegation at both the CD negotiations and the bilaterals and attended both international conferences. The MA Bureau provided most of the expert staffing for all delegations.

ACDA, through the Multilateral Affairs Bureau, also takes a leading role within the U.S. Government in the preparation for, and backstopping of, U.S. delegations to the two negotiations concerning European security. In March, the new negotiations among members of NATO and the Warsaw Pact on Conventional Armed Forces in Europe (CFE) began, as did the resumed negotiations among the 35 CSCE states on Confidence and Security-Building Measures (CSBMs), both in Vienna. Both negotiations meet four times a year, with each session lasting about six weeks. At their Summit in May, NATO Heads of State endorsed President Bush's call for a CFE agreement within one year, spurring intensive negotiations. ACDA and the MA Bureau have increased support for these negotiations both in terms of policy support and computer analysis support. The MA Bureau provides experts to both negotiations and to the frequent meetings at NATO Headquarters where alliance positions are developed.

The MA Bureau has assumed leadership of the backstopping effort for the bilateral U.S.-Soviet Nuclear Testing Talks in Geneva, which are negotiating improved verification measures for the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty. These negotiations were in session for virtually the entire year. ACDA provides experts to these negotiations.

ACDA, through the MA Bureau, prepares USG policy and provides much of the delegation staffing for U.S. delegations to various other international conferences held during the year. In 1989, the MA Bureau led the U.S. Delegation to the Third Review Conference of the Seabed Treaty in Geneva, and to the two committee meetings which prepared for it. ACDA also took the lead during this past year in preparations for carrying out U.S. Depositary Government duties in convening an international conference to amend the Limited Test Ban Treaty, which required many meetings with the other two Depositary Governments, the UK and USSR. Finally, the MA Bureau took the lead for ACDA in USG preparations for implementing President Bush's initiative on "open skies," whereby members of NATO and the Warsaw Pact will conduct unarmed and unrestricted aerial reconnaissance flights over each other's territory.

In short, in 1989, ACDA was heavily engaged in the staffing and backstopping of many major bilateral and multilateral arms control efforts in Geneva, Vienna and New York, with primary emphasis on chemical weapons and conventional arms control. A large proportion of the officers of the MA Bureau are therefore on delegation duty at any given time.

Looking ahead to 1990, we expect an even greater level of activity in chemical weapons, conventional arms control and nuclear testing arms control, as the USG works to implement the Malta Summit's mandate to conclude agreements in all these areas in 1990. In the CW area, in addition to the negotiating demands, the USG will implement the 1989 U.S.-Soviet Memorandum of Understanding calling for an exchange of data and a series of visits to U.S. and Soviet chemical facilities. A new undertaking will be the conferences planned to negotiate an "Open Skies" agreement. The Canadians will host one conference in February 1990, and it is expected that the Hungarians will host another conference later in the year. ACDA will also be required to continue preparations for convening the LTBT amendment conference; an organizational session of all States Party is to be expected in 1990.

REDUCING THE RISK OF NUCLEAR PROLIFERATION

Nuclear Proliferation	FY-90	FY-91	Diff.
Full-time permanent personnel	19	19	--
Amount (dollars in thousands)	1,538	1,779	241

Preventing the spread of nuclear weapons to additional countries has been a fundamental element of U.S. national security policy since the beginning of the nuclear age. ACDA will continue to expend a substantial portion of its financial and human resources in implementing United States' nuclear nonproliferation policy through FY 1990 and FY 1991.

ACDA is involved in all stages of policymaking in this area, including efforts to: (1) strengthen and promote adherence to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco); (2) strengthen the International Atomic Energy Agency (IAEA), with its unique safeguards system and technical assistance and safety programs; (3) develop and help carry out strategies for dealing with countries of proliferation concern; (4) work toward improved safeguards, controls and physical protection measures to deal with likely increases in the quantity and use of separated plutonium; (5) maintain policies and procedures on U.S. nuclear exports that promote nonproliferation objectives; (6) improve and promote international consensus on sound nuclear export policies; (7) conclude or implement new agreements for nuclear cooperation with Japan, EURATOM, and other countries; and (8) consult with other countries, including the Soviet Union, on matters of mutual interest. Efforts in these areas will continue and in many cases be increased in FY 1991.

The Non-Proliferation Treaty (NPT) continues to receive broad international support as the cornerstone of efforts to prevent the further spread of nuclear explosives. ACDA is the lead agency in the Executive Branch with regard to the NPT. As such, ACDA expends considerable resources in ensuring the widest possible adherence to and full implementation of the NPT. Over the years, ACDA has sustained United States' efforts to encourage all states to join the Treaty. In 1989, Qatar and Kuwait decided to join the NPT bringing the total membership to 140 states. U.S. efforts to promote increased adherence will be increased in FY 1990 and sustained in FY 1991. This effort will require constant monitoring of the views of non-NPT states to determine the most effective strategies for sustaining and strengthening the Treaty. It also will require regular consultations with other NPT parties. ACDA makes similar efforts with respect to the Treaty of Tlatelolco.

Because the U.S. strongly supports the NPT, it attaches considerable importance to the 1990 NPT Review Conference which will re-evaluate the implementation of the Treaty. In FY 1991, ACDA will review the results of the 1990 Review Conference and will carry out any necessary follow-up actions. Because of the NPT's vital contribution to U.S. and international security, the United States is committed to seeing the Treaty extended indefinitely when the parties meet in 1995 "to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods." In FY 1991, ACDA will begin its advance planning, including the development of early U.S. strategy, for the 1995 Conference. ACDA will initiate consultations with other NPT parties in order to begin laying the groundwork for the indefinite extension of the NPT. ACDA, again, will lead the US effort to prepare for this important NPT Conference.

Country issues, including monitoring all sources of information on nuclear programs and intentions of countries of proliferation concern, will continue to be a high priority for ACDA during FY 1991. The nuclear activities of India and Pakistan will continue to be a principal focus of ACDA staff. Promoting progress on nonproliferation agreements in Latin America, in particular the Treaty of Tlatelolco's entry into force for all eligible states, also will be a central part of ACDA's nonproliferation efforts. Continuing efforts will be made to strengthen the nonproliferation regime in the Middle East and in Africa, particularly with regard to South Africa.

For over thirty years, the International Atomic Energy Agency (IAEA) has been the institutional focal point for international efforts to promote the peaceful uses of nuclear energy and to establish a system of safeguards designed to ensure that nuclear materials are not diverted to military use. To promote U.S. nonproliferation goals and objectives, ACDA is deeply involved in supporting continued improvements and monitoring the implementation of IAEA international safeguards and technical assistance programs to ensure their effectiveness and their efficient implementation. During FY 1991, ACDA will work directly with the IAEA in many ways, including participation in meetings of the IAEA Board of Governors and the General Conference, the Technical Assistance and Cooperation Committee, and various consultant and advisory groups. ACDA experts review and monitor IAEA's various technical programs, with a view to encouraging those programs that reduce the risk of nuclear proliferation. ACDA staff also will continue to serve as technical consultants to the IAEA and on advisory groups for safeguards and fuel cycle issues. For example, ACDA chairs the IAEA Advisory Group on Spent Fuel Management.

ACDA will continue to devote special efforts to helping ensure the continued effectiveness and efficiency of IAEA safeguards. A critical part of these efforts will be ensuring funds and other resources for IAEA safeguards commensurate with the critical U.S. national security interests served by these safeguards. To maintain the effectiveness of IAEA safeguards, its resources must keep pace with the continuing increases in new, safeguarded nuclear facilities around the world.

IAEA safeguards are applied not only to nuclear material but also, in states not party to the NPT, to certain non-nuclear materials, equipment, and facilities. This is done in order to ensure that these items are not used directly or indirectly to further the acquisition of nuclear explosives. During the past few years the IAEA and its Standing Advisory Group on Safeguards Implementation have devoted significant effort to developing guidelines for future safeguards in both NPT and non-NPT states. ACDA makes available an expert as the U.S. member on this group. During FY 1990 and FY 1991, ACDA will make special efforts to help establish these guidelines and promote their incorporation into current IAEA safeguards criteria and practice, with special attention to effective measures and standards for non-NPT safeguards. ACDA will also continue to chair the US interagency working group for strengthening IAEA safeguards and lead bilateral consultations on this subject with key allies.

During FY 1991 and beyond, it is likely that the use of plutonium as a fuel for power reactors will continue to increase significantly in Japan and EURATOM. This will pose new challenges for IAEA safeguards at new facilities that use large quantities of plutonium, and for physical protection measures on the associated increased international transport of plutonium. ACDA will continue to work with the IAEA, and bilaterally with other nations, to develop effective safeguards, physical protection, and institutional measures to assure that increased use of plutonium in these countries will not significantly increase nuclear proliferation risks. Further, in response to the Omnibus Bill on Anti-Terrorism, ACDA will continue to work closely with other agencies to minimize the use of high-enriched uranium throughout the world.

ACDA plays a major role in decisions on U.S. cooperation with foreign civil nuclear programs. ACDA expects to be involved in further discussions that will be held between the U.S. and EURATOM in FY 1991 regarding a new or amended agreement for cooperation, one that would include the requirements of the Atomic Energy Act as upgraded by the 1978 Nuclear Non-Proliferation Act.

ACDA is participating in on-going multilateral efforts to upgrade and clarify international trigger lists for items "especially designed or prepared" for the processing, use, or production of source or special nuclear material. ACDA will continue to examine emerging technologies to ensure that appropriate international controls are in place as the technologies mature.

U.S. policy on the export of dual-use items will continue to receive close attention by ACDA in FY 1991. This is a difficult policy area and one that demands considerable time and effort from ACDA staff. In this context, dual-use items are those which can be used in both nuclear and non-nuclear applications. Policies and procedures must discriminate among dual-use export requests so that the ones that raise nonproliferation concerns receive appropriate attention, while other exports can be facilitated. Considerable ACDA resources will be devoted to ensuring that the export of dual-use items does not contribute to the design, construction, or operation of unsafeguarded nuclear facilities in non-nuclear-weapon states.

As part of this effort, ACDA will continue to participate in the Subgroup on Nuclear Export Coordination. This group reviews dual-use exports and provides advice on the disposition of individual export cases. ACDA also will assist the State Department in discussions with other supplier states concerning ways to improve their export control systems and increase international cooperation in controlling dual-use exports. ACDA will continue its efforts to improve interagency coordination to guard against illegal procurement of U.S.-origin goods on behalf of foreign nuclear programs.

ACDA will continue to be involved in periodic bilateral and multilateral consultations with other nuclear supplier countries throughout FY 1991. The number of countries with whom the United States holds such consultations has grown over the past few years. Increased efforts in export control and related intelligence monitoring is expected to be required as several potential proliferating countries intensify their efforts to procure nuclear hardware and technology in the international market. The effort by the European Community to move toward a single internal market by the end of 1992 will also receive priority attention from the standpoint of its impact on common nuclear export controls. Issues to be addressed in FY 1991 include efforts to: (1) halt individual nuclear-related exports to countries of proliferation concern; (2) clarify further the existing international control lists; (3) encourage other suppliers to make significant, new nuclear supply commitments only to non-nuclear-weapon states that have all their nuclear facilities under international safeguards; (4) promote international cooperation on the control of dual-use commodities; and (5) encourage continued restraint in the export of plutonium, highly enriched uranium, and equipment and technologies for the production of these nuclear materials.

ARMS AND TECHNOLOGY TRANSFERS

Arms & Technology Transfers	FY-90	FY-91	Diff.
Full-time permanent personnel	8	9	1
Amount (dollars in thousands)	973	1,249	276

ACDA has general and specific mandates under the Arms Control and Disarmament Act, the Arms Export Control Act, and the Foreign Assistance Act to evaluate proposed arms transfers and military assistance programs to determine whether and to what extent they might contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements. Last year the Agency conducted approximately 1,200 arms control assessments under these statutory provisions.

ACDA also participates in the senior-level Arms Transfer Management Group and the Security Assistance Program Review Working Group. These interagency bodies assist the Under Secretary of State for Security Assistance, Science and Technology in formulating arms transfer policies, making decisions on major cases, and developing the annual security assistance program and related legislative initiatives. Additionally, ACDA participates in the interagency National Disclosure Policy Committee.

The Agency prepares the arms control assessments for the comprehensive annual security assistance Congressional Presentation Document, prepares arms control evaluations of significant foreign military sales cases for Congress as requested, and participates in all interagency arms transfer policy working groups.

In conjunction with its arms transfer policy functions, ACDA actively participates in the development of regional and weapon-specific arms transfer policies. For example, ACDA led an interagency study group that examined the arms control implications of the spread of nuclear-powered submarines in the Third World. Because SSNs are basically power projection, not defensive, platforms, the development or acquisition of such a capability by one country may inspire a sense of threat on the part of their neighbors. ACDA also contributed to the development of US policy on the export of advanced fighter aircraft to Third World regions as well as controls on the proliferation of aerial refueling equipment and technology.

ACDA also participates actively in policy development and international negotiations relating to missile proliferation. In addition to membership on the Proliferation Policy Coordinating Committee, ACDA participates in the interagency staff-level Missile Trade Analysis and Missile Technology Export Groups.

Since the creation of the Missile Technology Control Regime (MTCR) in April 1987, the U.S. and its partners have steadily increased their efforts to stem the global proliferation of nuclear-capable missiles. Cooperation is growing and improving among adherents of the regime itself. Several of the MTCR partners have reacted to the involvement of their firms and citizens in proscribed missile activities by reforming and strengthening their export control systems. The December 1989 meeting of the MTCR adherents in London achieved a positive consensus on the priorities for expanding the regime to new adherents.

We have also raised our concerns with other supplier countries, particularly the Soviet Union and China, and with proliferant countries in the Middle East, South Asia, and South America. ACDA participates in this continuing dialogue as a means of strengthening the Missile Technology Control Regime and related efforts to arrest the spread of nuclear-capable missiles.

Soviet officials have publicly expressed concern about missile proliferation, and have suggested various ways to deal with it. U.S.-Soviet bilateral discussions in Paris in December 1989 provided a useful forum for continuing a constructive exchange of views on the missile proliferation problem. These nonproliferation discussions highlighted the common U.S.-USSR interest in controlling the further spread of potentially destabilizing missile systems and technology, particularly to regions of tension and conflict.

ACDA also actively participates in and supports the ongoing dialogue with Chinese leadership designed to elicit China's cooperation in international efforts to limit the dangerous proliferation of ballistic missiles. In connection with the visit of the President's National Security Advisor in December 1989, China reaffirmed previous assurances that China has taken a serious and responsible attitude toward the sale of medium-range missiles. A Chinese spokesman stated that, except for the sale of CSS-2 missiles to Saudi Arabia, China has not sold and has no plans to sell any medium-range missile to any Mideast country.

ACDA also participates fully in U.S. efforts to strengthen international norms against illegal chemical weapons use and to limit dangerous CW proliferation. ACDA initiated and participated in the development of U.S. unilateral, bilateral, and multilateral policy measures to curb the spread of chemical weapons (CW). ACDA played a major role at both the Paris CW Use Conference and the Canberra CW Government-Industry Conference. ACDA will continue to be heavily engaged in efforts to address CW proliferation and the achievement of the widest possible international cooperation in these initiatives.

Finally, ACDA contributes to the development of regional arms control arrangements among Third World nations, such as Central American confidence-building measures. It is possible that future initiatives will include regional missile and/or CW arms control arrangements.

DEFENSE PROGRAM ANALYSES AND ARMS CONTROL

Defense Program Analyses	FY-90	FY-91	Diff.
Full-time permanent personnel	8	8	--
Amount (dollars in thousands)	750	821	71

ACDA's Defense Programs and Analysis Division assesses the national security implications of arms control concepts and proposals relating to military strategies and force postures. The Division's civilian and military staff members also analyze U.S. defense policies, programs and technologies, and economic issues as they relate to arms control positions.

Since 1975, the Executive Branch has been required by law to submit arms control impact statements concerning nuclear weapons and those systems exceeding prescribed annual or program costs to Congress at the time the President submits his annual fiscal year budget request. ACDA is responsible for preparing these impact statements, which are subject to interagency approval before submission. The statements analyze the implications of various defense programs on arms control agreements, policies, and negotiations. The FY 1991 ACIS submission will include an arms control policy statement and arms control impact analyses on strategic offensive systems, the strategic defense initiative, chemical weapons, and an abbreviated list of other significant programs.

In response to a Congressional directive, ACDA is engaged in FY 1990 in preparing a report on improving prospects for conversion of US defense industries to civilian pursuits. ACDA's Annual Report to the Congress, prepared by the DPA Division, contains in-depth reviews of all US arms control activities engaged in during the year.

Military and economic analyses conducted in ACDA are directed to U.S. and Soviet arms control positions, military spending programs, national economic accounts, and international trade in arms. Specific projects include conventional force capability comparisons, the economic effects of arms control positions and agreements, the impact of offsets in the international arms trade, and the economic impact of U.S. defense spending and arms transfers. ACDA responsibilities in initiating, participating in, and providing support for operational activities related to inspections conducted under the aegis of the Antarctic Treaty are also carried out. The most recent Antarctic inspection occurred during FY 1989.

ACDA publishes an annual statistical compilation, World Military Expenditures and Arms Transfers (WMEAT). This publication is recognized internationally as the authoritative source of military and economic statistical data pertaining to the distribution, size and trend of global military expenditures and the international arms trade. This information is presented over an 11-year period for 145 individual countries, as well as for various groupings of countries and the world as a whole. Analyses are made of the data's trends and implications. Related essays by distinguished authors are included.

VERIFICATION AND INTELLIGENCE

Verification & Intelligence	FY-90	FY-91	Diff.
Full-time permanent personnel	22	24	2
Amount (dollars in thousands)	2,644	4,783	2,139

The Bureau of Verification and Intelligence provides a focal point within ACDA and within the U.S. Government for formulating arms control verification policy and for assessing Soviet compliance with agreements. The Bureau studies and analyzes verification and compliance policy, provides direct support to treaty drafting and negotiation as it affects verification concerns, and participates in assessments of Soviet and other compliance with arms control agreements. The Bureau has a key role in the NSC Arms Control Policy Coordinating Committee (PCC) mechanism through participation in all treaty areas, and particularly in the PCC Subcommittee on Verification and Compliance (SCVC). The VI Bureau Assistant Director serves as the ACDA member of the SCVC and has an ACDA seat on the Arms Control PCC. In addition the Bureau provides analytical and computer support to the entire agency.

In performing this mission, the Bureau maintains capabilities in:

- verification and compliance analysis and improving verification resources;
- intelligence studies, tasking and support; and
- operations analysis studies, simulation and computer support.

The Bureau has three divisions which, respectively, provide these capabilities: Verification (DV), Intelligence (DI), and Operations Analysis (OA). All three divisions support Agency-wide operations.

The Bureau plans, organizes and supervises studies and policy papers prepared within the Agency, and reviews those prepared by other organizations, dealing with the verifiability of provisions of current and projected arms control agreements; provides, for the Director's use, the assessments of verifiability and other information called for in the Arms Control and Disarmament Act (as amended); prepares analyses of information pertaining to compliance by other states with existing arms control agreements to which the U.S. is a party; makes assessments of possible new systems, devices, and capabilities for verification; conducts liaison with intelligence and scientific agencies concerned with systems, techniques, and instruments useful for verification; makes arrangements for and participates in discussions of U. S. and international bodies involved in the verification of and compliance with arms control agreements; and provides intelligence information pertinent to the planning for arms control discussions, the conduct of negotiations, and the assessment of compliance.

Some of the specific activities recently performed by the Bureau are:

- Led and contributed to the development of the statutorily required arms control noncompliance reports which the President forwarded to Congress. Six such reports have been issued, the most recent in December, 1989.
- Contributed to the implementation of verification procedures, methods and analysis for the INF Treaty by providing, through the interagency mechanism, verification guidance to the OSIA.
- Led and contributed to the development of effective verification requirements for START and CFE treaties and for the TTBT and PNET verification protocols.
- Provided expert verification advisory support and ACDA representation to ongoing negotiations in START, CFE, CW and nuclear testing.
- Conducted "Red Team" verification analyses for START and the nuclear testing protocols in which acknowledged experts judged the viability of the verification regimes by formulating and assessing the probable effectiveness of evasion scenarios that might be used to defeat these verification regimes.
- Production of analytical studies of arms control options in START, CFE and INF. These studies included the use of the TACWAR conventional model to study the impact of the 1988 Gorbachev reductions, and a study of violation detection probabilities associated with inspection sampling procedures in support of INF, START and CFE verification.

- Provided ACDA and all the other government agencies involved in arms control negotiations with computerized information retrieval systems of arms control negotiation records, treaties and other pertinent data and information. These systems were used to compile a "Compendium of Verification Policy Statements" in support of the preparation of verification standards.

Enhanced ACDA's operations analysis capability by:

- Upgrading the VAX computer central processor to one which is five times faster and by adding a substantial amount of peripheral equipment which will provide computer access to more personnel and faster, more flexible output.
- Making substantial improvements in strategic and conventional warfare analytic capability by acquiring new models, or upgrading old ones and by acquiring new conventional force data bases.
- Provided intelligence analyses in support of ongoing START, CFE, CW and nuclear testing negotiations and intelligence support to the nuclear non-proliferation program.

Some of the important activities and problems that will engage the Bureau in the coming year are:

- Conducting a "Red Team" analysis for CFE.
- Preparing statutorily required verifiability analyses for the forthcoming START and CFE treaties.
- Assessment of the feasibility, value and limitations of on-site inspection as a verification tool for various treaties.
- Preparing the 1990 President's Report on Noncompliance with Arms Control Treaties for submission to the Congress.
- Continuing to provide expert verification advisory support and ACDA representation to ongoing negotiations in START, CFE, CW and nuclear testing.

- Continuing to provide verification guidance to the On-Site Inspection Agency (OSIA) through the established interagency mechanism.

- Continuing to perform conventional warfare analyses. Using TACWAR and SIMFORCE - programs that simulate conventional war - ACDA will do studies comparing the effects of conventional force reduction treaty options on NATO's war fighting capability in Europe.

- Continuing to perform strategic analyses using static and dynamic computer models including those in progress to assess the impact of mobile missile limitations and of ALCM counting rules in support of START negotiations.

- Continuing to perform game theory, statistical and other mathematical analyses in support of START and CFE verification.

- Enhancement of the operations analysis capability by increasing personnel resources to effectively use the analytical tools available for assessing the impact of arms control proposals.

- Enhancement of verification capability. ACDA does not have sufficient personnel for both the verification requirements of future arms control agreements and the implementation and compliance needs of current treaties.

- Continuing to provide intelligence analyses to support NST, CFE, CW, nuclear testing and non-proliferation.

SUPPORT FUNCTIONS

Support Functions	FY-90	FY-91	Diff.
Full-time permanent personnel	62	65	3
Amount (dollars in thousands)	10,103	9,266	- 837

The Agency's support functions are provided by the offices of Administration, the General Counsel, Congressional Affairs, Public Affairs, and Security.

The Agency provides supplemental administrative support and substantive backstopping for delegations involved with U.S./Soviet bilateral negotiations, such as the NST delegation which recently completed its twelveth session on December 11, 1989. ACDA also assists in multilateral negotiations, such as the CD, CFE and CSBMs, which receive their principal administrative support from the Department of State.

The Office of Administration is responsible for providing the Agency with necessary administrative support at headquarters in Washington, as well as the various arms control delegations overseas. The office accomplishes its major objectives through its Budget & Accounting, Travel, Personnel, Contracts, Information Management, and Communications & General Services staffs.

The Office of the General Counsel is responsible for all matters of domestic and international law relevant to ACDA's work. It provides advice and assistance in drafting and negotiating arms control treaties and agreements, and on questions regarding their approval by Congress, implementation, interpretation, ratification, and revision. The General Counsel, Deputy General Counsel and other attorneys from the office serve as legal advisers on U.S. arms control negotiating delegations (e.g., START, Defense and Space, Nuclear Testing, and Conventional Forces in Europe). Office attorneys also serve on multilateral negotiating delegations, at conferences reviewing past arms control agreements, and on the Standing Consultative Commission and the Special Verification Commission.

The office is responsible for legal matters relating to arms control policy formulation and ACDA legislative programs, including drafting such legislation. It performs liaison as required with the Legislative Reference Division of the Office of Management and Budget. Office attorneys, as officers of the American Bar Association's Committee on Arms Control, of which the General Counsel is chairman, serve as liaison with the Association. The Office also handles the legal aspects of Agency policies and operations in the areas of personnel, ethics, security, patents, contracts, procurement, fiscal, and other administrative matters.

The Office of Congressional Affairs (CA) has the primary responsibility for Congressional liaison, coordination and representation. These activities include preparation for and attendance at Congressional briefings, consultations, and hearing. This office also assists in the preparation for visits by members of Congress to our negotiating fora and is responsible for Congressional inquiries. The status of proposed and existing arms control agreements, and inter- and intra-agency coordination of arms control Congressional matters are also included in the liaison activity. Travel with Congressional arms control delegations is within the purview of this office. Communication between the Agency and Congressional committees, Members and staff, formal and informal, is designed to keep Congress informed of our arms control efforts. This process includes obtaining insights by ACDA Congressional Affairs for suggestions and initiatives within ACDA.

The Office of Public Affairs (PA) is charged with implementing one of the four major tasks assigned to ACDA by law: disseminating information on arms control and disarmament to the public.

To this end, the Public Affairs Office carries out three functions. In its "spokesman role", PA works to ensure that the media and other priority audiences have an accurate and complete understanding of US arms control policies. Secondly, this office manages the public affairs activities of ACDA. For example, it aggressively pursues speaking engagements for ACDA officials before private groups -- civic, professional, academic, and others. It publishes a variety of materials for and responds to thousands of information requests annually. The office acts as liaison with national and international media, provides support for and liaison with the national security interagency public diplomacy group, and coordinates ACDA's public education program of speaking engagements, seminars and conferences. Finally, the Office provides the Director and senior Agency officers with advice on public perceptions of US Government arms control positions.

The Office of Security is responsible for the security program of the Agency which has personnel located in Washington, D.C., and Geneva, Switzerland. The program includes physical, procedural, personnel, technical, and computer security, investigative and intelligence functions, as well as liaison with other national security and federal investigative agencies.

ACDA EXTERNAL RESEARCH PROGRAM FY-91

The ACDA FY-91 external research program has been planned to support the activities of principal line bureaus within the limits set by the availability of financial resources. ACDA has reinvigorated its research budget by requesting an additional $1.8 million over our FY-90 request, reprsenting an increase of 900%.

This year's research efforts will focus primarily on verification, particularly on chemical weapons, as a result of the Administration's new initiatives in this area. ACDA will also increase its support for external research in the following areas; nuclear safeguards, non-proliferation, and the defense and space arms, strategic nuclear arms, and intermediate-range nuclear arms negotiations. The following is a tabulation of ACDA's FY-90 and FY-91 external research for ongoing ACDA programs by bureau.

	FY-90	FY-91
Director's Reserve	$ 50,000	$ 100,000
MA	25,000	250,000
NWC	75,000	250,000
SP	25,000	250,000
VI	25,000	1,150,000
TOTAL	$ 200,000	$ 2,000,000

Funding of the chemical weapons verification research represents the bulk of the above external research funds for the VI Bureau in FY-91.

The Director's reserve is used primarily for back-stopping the NST Delegation and quick turn around analysis for priority projects that are difficult to predict in advance.

The external research programs of the Multilateral Affairs Bureau and the Strategic Programs Bureau are conducted to support long-range nuclear arms delegations, as well as, the SVC, SCC, CFE, CSBMs, NTT, and other negotiations, and is expected to be used for the most part for verification and monitoring projects. The projects of the Verification and Intelligence Bureau deal with verification of existing agreements as well as those currently being negotiated. The NWC Bureau uses its external research funds for studies and analyses to support the Bureau's non-proliferation and safeguards work.

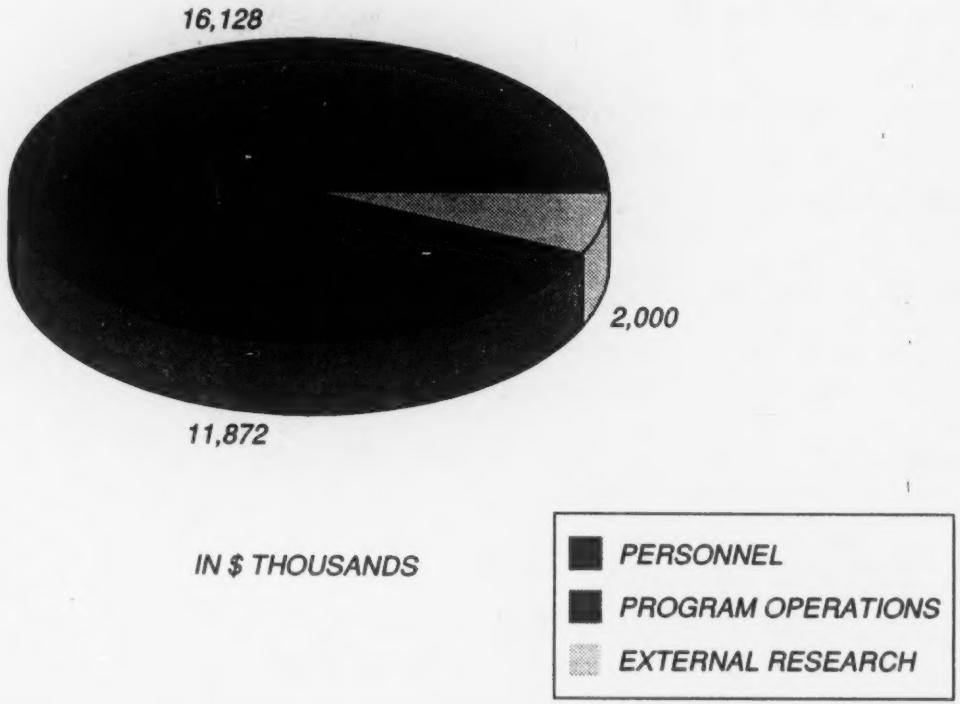
UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

OBLIGATIONS BY OBJECT CLASS
($000)

	FY-90	FY-91	Change +/-
PERSONNEL COMPENSATION			
FULL-TIME PERMANENT	$8,163	$9,096	933
OTHER THAN FULL-TIME PERMANENT	533	593	60
CONSULTANTS	450	450	—
VISITING SCHOLARS (FOSTER FELLOWS)	320	332	12
REIMBURSABLE DETAILS			
STATE DEPARTMENT	2,687	1,363	-1,324
MILITARY	1,634	1,831	197
OVER-TIME AND HOLIDAY PAY	108	114	6
TERMINAL LEAVE	54	57	3
TOTAL PERSONNEL COMPENSATION	$13,949	$13,836	-113
BENEFITS	$1,831	$2,292	+461
TOTAL PERSONNEL COMPENSATION & BENEFITS	$15,780	$16,128	+348
OTHER OBLIGATIONS			
TRAVEL, PER DIEM & TRANSPORTATION	$3,132	$3,396	264
RENTS, COMMUNICATIONS & UTILITIES	1,402	1,500	98
PRINTING & REPRODUCTION	19	30	11
OTHER SERVICES	12,663	6,676	-5,987
EXTERNAL RESEARCH	200	2,000	1,800
SUPPLIES AND EQUIPMENT	229	270	41
TOTAL OTHER OBLIGATIONS	$17,645	13,872	-3,773
TOTAL OBLIGATIONS	$33,425	$30,000	-3,425

U. S. ARMS CONTROL AND DISARMAMENT AGENCY

FY 1991 BUDGET REQUEST



UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

BUDGET REQUEST BY BUREAU AND OFFICE

FY-1991

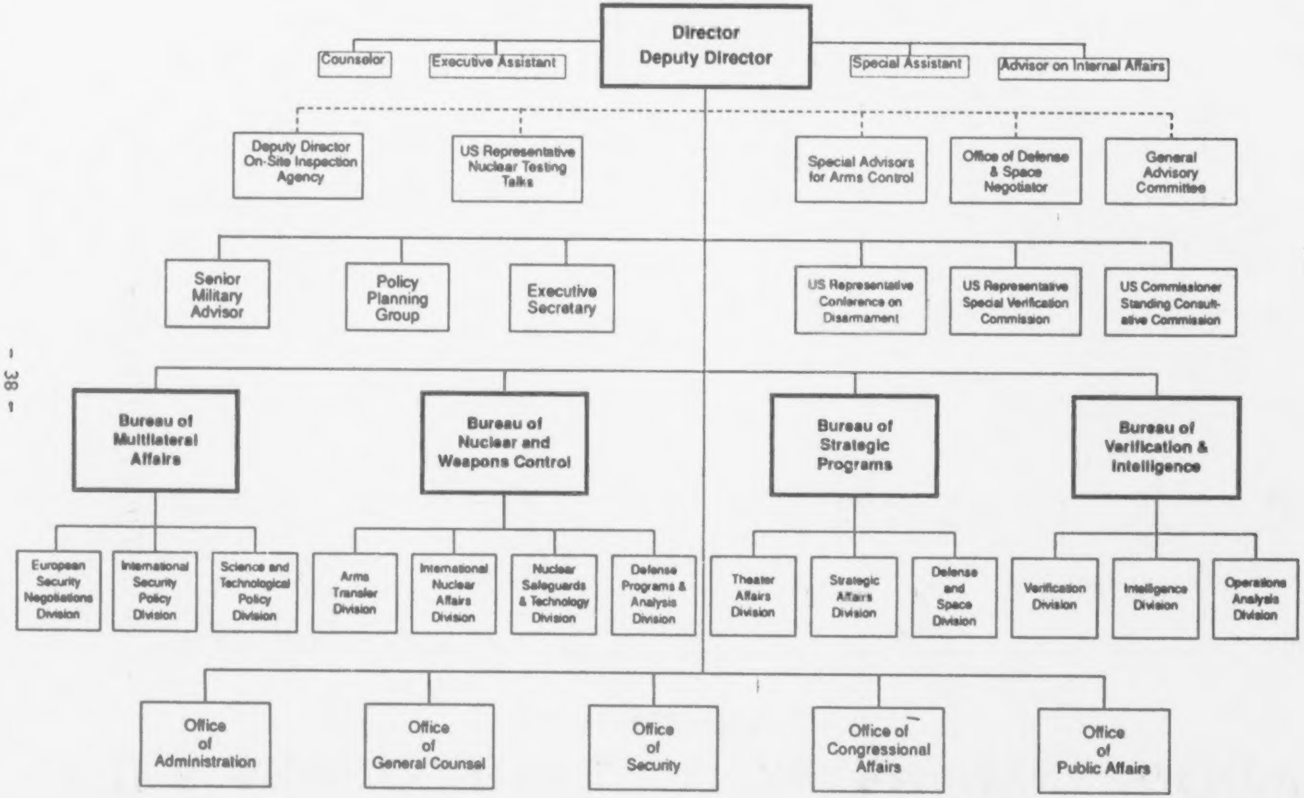
($000)

	D	MA	NWC	SP	VI	ADMIN	CA	GC	PA	TOTALS
PROGRAM OPERATIONS	806	888	1,063	2,549	1,636	4,069	136	349	376	11,872
PERSONNEL COMPENSATION	2,838	2,324	2,536	2,340	1,997	2,079	312	987	715	16,128
EXTERNAL RESEARCH	100	250	250	250	1,150	-	-	-	-	2,000
TOTALS	3,744*	3,462	3,849	5,139	4,783	6,148	448	1,336	1,091	30,000
FULL-TIME PERMANENT (FTP)	27	27	36	29	24	29	5	13	14	204

* Includes the Office of Security

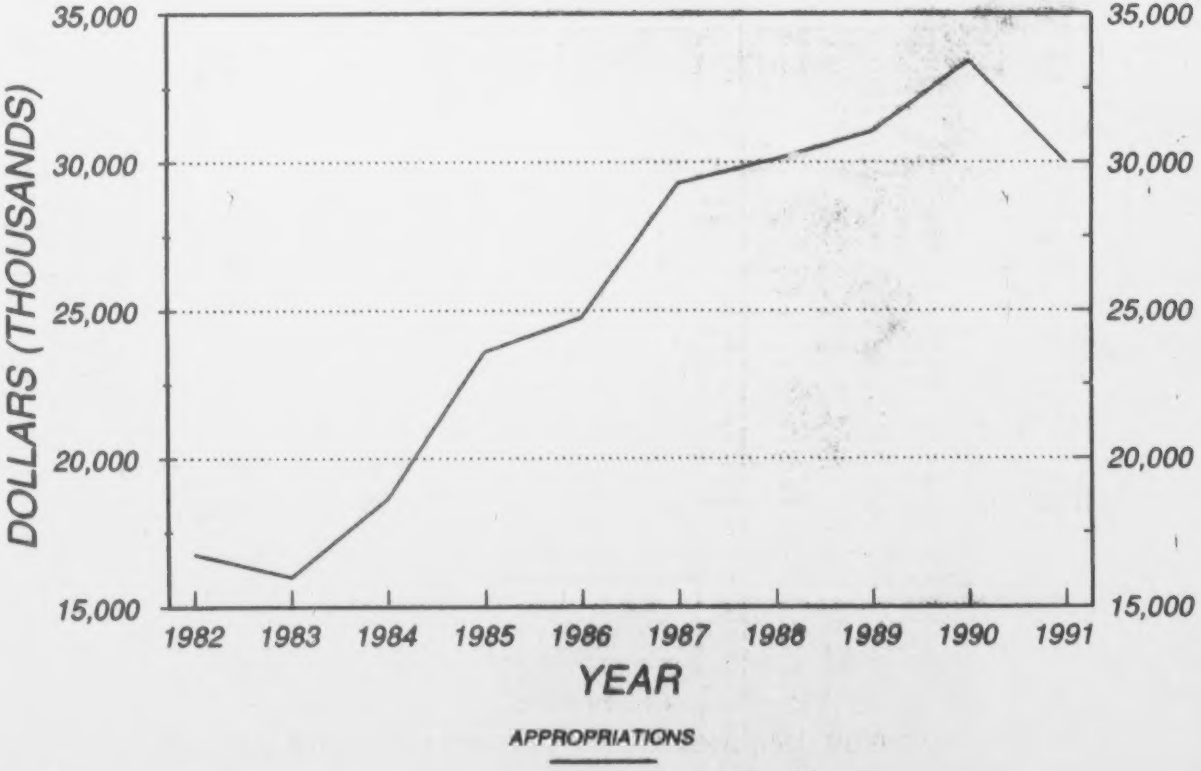
UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

(December 31, 1989)


Director
Deputy Director
Counselor
Executive Assistant
Special Assistant
Advisor on Internal Affairs
Deputy Director On-Site Inspection Agency
US Representative Nuclear Testing Talks
Special Advisors for Arms Control
Office of Defense & Space Negotiator
General Advisory Committee
Senior Military Advisor
Policy Planning Group
Executive Secretary
US Representative Conference on Disarmament
US Representative Special Verification Commission
US Commissioner Standing Consultative Commission
Bureau of Multilateral Affairs
Bureau of Nuclear and Weapons Control
Bureau of Strategic Programs
Bureau of Verification & Intelligence
European Security Negotiations Division
International Security Policy Division
Science and Technological Policy Division
Arms Transfer Division
International Nuclear Affairs Division
Nuclear Safeguards & Technology Division
Defense Programs & Analysis Division
Theater Affairs Division
Strategic Affairs Division
Defense and Space Division
Verification Division
Intelligence Division
Operations Analysis Division
Office of Administration
Office of General Counsel
Office of Security
Office of Congressional Affairs
Office of Public Affairs

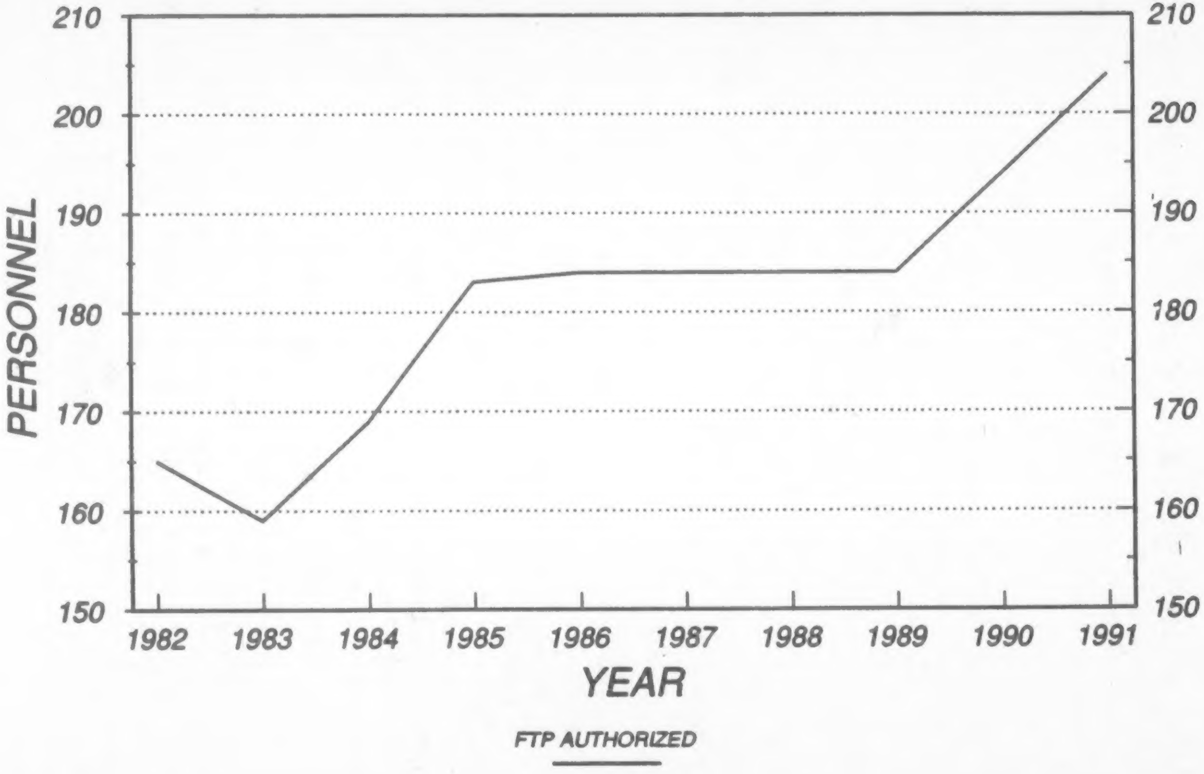
U. S. ARMS CONTROL AND DISARMAMENT AGENCY

FISCAL YEARS 1982 - 1991



U. S. ARMS CONTROL AND DISARMAMENT AGENCY

FISCAL YEARS 1982 - 1991



Mr. **Carr**. Testifying on behalf of the Agency today is the Director, Richard F. Lehman.

Mr. Lehman, would you like to begin?

The floor is yours.

GENERAL STATEMENT

Mr. **Lehman**. I have a rather lengthy prepared statement, which with your permission I would submit for the record.

Mr. **Carr**. Without objection, it will be included for the record.

Mr. **Lehman**. This is a particularly satisfying time to be at the Arms Control and Disarmament Agency.

When I took the job as Director, I anticipated things would move relatively quickly in a number of areas.

I must say I was a bit optimistic perhaps. In retrospect, I may well have not been optimistic enough. We have made considerable progress across the broad agenda.

CONVENTIONAL ARMS CONTROL

In particular, we have been pleased in one area where it has been difficult to get progress in the past, conventional arms control, we have a number of historic breakthroughs.

We recognize that the rapid political change that is taking place in Eastern Europe and the Soviet Union has created additional opportunities for us. That is one of the reasons that even as opportunities are created both by circumstances beyond our control and circumstances we try to influence, we want to take advantage of those opportunities.

STRATEGIC ARMS REDUCTIONS AND CHEMICAL WEAPONS

Just a few weeks ago I returned from the Moscow foreign minister's meeting where I think we made considerable progress on issues related to the strategic arms reduction talks and the chemical weapons area, and I just returned from the Ottawa minister's meeting on the open skies negotiations, which also featured breakthroughs in the area of conventional manpower in CFE and also the issue of German reunification took a great step forward.

I am prepared to discuss these substantive issues as well. As you know, I am also here to present our budget request.

FY 1991 BUDGET REQUEST

If you look at that request, you will see that we are asking for an increase in funds for our substantive operations.

Let me tell you that we do need it. The pace of operations is, I think, far greater than people anticipated at this time.

We are also asking for an increase in manpower of 10 slots.

I think we have a very good justification. I would be pleased to discuss all of this with you.

Mr. Chairman, I can stop there if you like. I would be pleased to respond to any questions.

[The prepared statement of Mr. Lehman follows:]

STATEMENT OF RONALD F. LEHMAN II

DIRECTOR

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

BEFORE

THE HOUSE APPROPRIATIONS COMMITTEE

SUBCOMMITTEE ON
COMMERCE, JUSTICE, STATE, THE JUDICIARY,
AND RELATED AGENCIES

MARCH 5, 1990

Mr. Chairman, it is a privilege to appear before you and the Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies. We look forward to working with you and your distinguished colleagues. We appreciate the strong interest in and support for the Arms Control and Disarmament Agency (ACDA) which this committee has consistently demonstrated.

Although we are optimistic about the possibilities of a new, cooperative era in US-Soviet relations, our efforts in arms control - if they are to serve the security of the United States and its allies and promote enduring peace - must proceed on a realistic foundation. We must not miss opportunities to improve our relationships, but we must also not lose our bearings. Therefore, we continue to search for ways to strenghten our professional contributions to the arms control process. The following budget request is based upon this commitment and active progress in our bilateral and multilateral negotiations in Geneva, Vienna and elsewhere.

The President's FY-91 budget request includes $30,000,000 for continuing ACDA programs. However, before we begin detailed discussions of ACDA's funding requirements, I would like to review ACDA's activities over the past year.

Strategic Programs Bureau

One of ACDA's key ongoing responsibilities is preparation for and support of the Nuclear and Space Talks (NST) which is made up of Negotiating Groups for both the Strategic Arms Reduction Talks (START) and the Defense and Space Talks (D&S). The Strategic Programs Bureau (SP) plays the leading role within the Agency on these issues with the active assistance of other ACDA components. SP also plays a leading role within ACDA and within the interagency process, with the active assistance of other ACDA components, in the development of policies for the U.S. Component of the U.S.-USSR Standing Consultative Commission (SCC) and for the Special Verification Commission (SVC).

Throughout 1989 the Bureau was intensively engaged in the preparation and coordination of extensive analyses to support interagency START and D&S policy development, and in leading the interagency process that developed specific negotiating instructions for the two Negotiating Groups. In addition, SP provided a senior delegation member, advisors, and support personnel for each Group. The Agency supported the entire NST Delegation administratively and logistically, both in Washington and Geneva. In addition to NST issues, SP played a key role in supporting discussions with the Soviets in the SVC and in diplomatic channels on INF implementation issues and in supporting SCC discussions and ABM Treaty compliance issues. SP lead preparation for three sessions of the SVC. Similarly, SP took a leading role in preparations for two sessions of the SCC and provided an Agency Representative and support personnel to the U.S. SCC Component. The Agency supported the entire U.S. SCC and SVC Components administratively and logistically, both in Washington and Geneva. These requirements will continue into 1990.

START

The START negotiations were extremely active during 1989. Building on progress recorded earlier, the two sides focused on the Joint Draft Text (JDT) of a START Treaty, its accompanying Protocols and Memorandum of Understanding. At the Ministerial meeting in Wyoming in September the two sides made considerable progress on a variety of issues, including U.S. agreement to allow mobile missiles and joint agreement on several features of the regime for verifying such systems. A key breakthrough was achieved at the Malta Summit in December where the two sides agreed at the highest level to attempt to resolve all remaining substantive issues in time for the Summit meeting which is to occur in the U.S. in June 1990.

In the negotiations themselves, many areas of disagreement in the very lengthy package of documents under consideration were resolved in 1989. However, differences in a variety of areas, both major and minor, remain to be settled. Further progress was recorded at the recent Ministerial meeting in Moscow, the ALCMs counting issue was resolved and the Soviets accepted the U.S. declaratory approach to SLCMs. In addition, there was significant progress on the treatment of non-deployed missiles and banning the denial of data from ballistic missile tests. It now appears likely that the two sides will be able to resolve all major outstanding issues by the June Summit thereby improving the prospect for Treaty signature by year's end.

The latest round of talks resumed in Geneva in January and we anticipate that intense negotiations will continue until the Summit. SP Bureau provides several advisors to support the ACDA START Representative in Geneva. Also, SP staff in Washington actively support the ongoing negotiations, including chairing the Backstopping Committee, which is primarily responsible for providing day-to-day guidance to the U. S. START Negotiating Group.

Standing Consultative Commission

Other bilateral arms control activities in 1989 included two regular sessions of the U.S.-USSR Standing Consultative Commission (SCC) in Geneva. These sessions were held from June 14 - July 26, 1989, and from November 1 - December 13, 1989. The next session of the SCC is scheduled to convene on April 4, 1990.

Through discussions in the SCC and in other diplomatic channels, progress has been made toward the resolution of certain U.S. concerns regarding Soviet compliance with the ABM Treaty. In particular, the Soviet violation of the ABM Treaty caused by the illegal deployment of ABM radars at Gomel has been resolved, and the Soviets have stated that they will completely eliminate the Krasnoyarsk radar, a significant violation of a central element of the ABM Treaty. The complete and verifiable elimination of the Krasnoyarsk radar, consistent with U.S. criteria, will remove this violation. In the SCC, the U.S. also addresses other issues of concern related to compliance with the ABM Treaty.

ACDA's role in these activities is one of leadership in, preparation for, and conduct of, the meetings. By chairing the Backstopping Group in Washington during the preparation phase and meetings themselves, ACDA professional staff members lead the interagency work on policy formulation and follow-up instructions. In addition, ACDA provides members and support staff for the bilateral sessions. The Office of the U.S. SCC Commissioner is situated in ACDA and is provided full-time continuous support. These requirements will continue in 1990.

Multilateral Affairs

The Multilateral Affairs Bureau serves as the focal point within the U.S. Government for policy preparation, backstopping, and logistical support of the chemical weapons negotiations and other issues in the Conference on Disarmament (CD) in Geneva, and for the various disarmament fora of the United Nations. The Bureau also plays a key role in the various fora on conventional arms control in Europe, for nuclear testing talks, and the Open Skies negotiations.

Conference on Disarmament

The primary activity at the 40-nation Conference on Disarmament is the negotiation of a global, effectively verifiable ban on chemical weapons. Work at the CD has intensified in 1989 as the Committee on Chemical Weapons divided itself into five working groups addressing various aspects of the CW convention. Another aspect of USG support for the CW negotiations is the conduct of national trial inspections. The CD agreed in 1988 that each country should undertake such national efforts in an attempt to develop agreed inspection procedures for the treaty. The U.S. held one national trial inspection in 1989; another will be held in 1990. At some point, members of the CD will undertake multinational trial inspections.

Supplemental to the multilateral negotiations, the United States and the Soviet Union have continued to intensify their bilateral discussions on a CW ban. Three bilateral negotiating sessions were held in 1989, and at the Wyoming Ministerials in September, our two countries signed a bilateral Memorandum of Understanding providing for a data exchange and series of reciprocal visits to chemical weapons facilities. The first visit will occur in June. The two sides are currently working on a second bilateral agreement on CW destruction, whereby the two sides would undertake to destroy chemical weapons down to equal low levels. The President has announced his objective to have this agreement ready for signature at the June Summit. The MA Bureau has stretch its limited manpower resources to the limit to sustain the unprecedented level of activity in the bilateral and multilateral CW negotiations.

Conventional Arms Control in Europe

Political developments in Eastern Europe and the Soviet Union have increased the urgency of concluding an agreement at the Vienna negotiations on Conventional Armed Forces in Europe (CFE). Assuming a CFE agreement is ready, a Summit meeting of European states will take place later this year to sign it. The MA Bureau takes the lead for ACDA in US Government policy-making and backstopping of these negotiations, and provides both senior-level and expert-level participation in the U.S. Delegation. Other offices within ACDA also provide specialized assistance to the U.S. Delegation. The MA Bureau similarly acts as ACDA's agent in supporting the negotiations on Confidence- and Security- Building Measures negotiations in Vienna, and provides expert-level representation to the US Delegation.

Nuclear Testing Talks

The MA Bureau, supported by staff from the VI Bureau, takes the lead for ACDA in interagency development of policy for the U.S.-Soviet bilateral negotiations on improved verification measures for the 1974 Threshold Test Ban Treaty (TTBT) and the 1976 Peaceful Nuclear Explosions Treaty (PNET). The President has indicated his objective of signing these verification protocols at the June Summit. The negotiations have been in near-constant session throughout 1989 and at present. The MA Bureau heads the interagency backstopping committee in support of these negotiations.

Open Skies

Pursuant to the President's initiative in May 1989, members of NATO and the Warsaw Pact met in Ottawa in February 1990 to begin negotiations on a treaty on Open Skies, whereby each participating state will be permitted overflights of other countries by unarmed surveillance aircraft. A second session of the conference will be held in Budapest, Hungary starting in

April. Intended to enhance confidence and openness among states, the Open Skies treaty will also be a useful adjunct for assisting in the verification of other arms control agreements. The MA Bureau takes the lead within ACDA for policy development and backstopping of these negotiations.

Other International Conferences

ACDA is traditionally in charge of review conferences and other special multilateral conferences held pursuant to arms control agreements. In 1989, the MA Bureau managed U.S. participation in the Third Review Conference of the 1972 Seabed Treaty. Throughout 1989 and continuing at the present, ACDA is also managing US preparation for the amendment conference of the 1963 Limited Test Ban Treaty which one-third of the Parties have requested. The three Depositary Governments of the LTBT, the U.S., the U.K., and the USSR, have arranged that this amendment conference be held in January 1991. A Preparatory Conference will probably be held sometime in 1990. In addition, the MA Bureau is already preparing for, and will take the lead in managing U.S. participation in, the next review conference of the 1975 Biological Weapons Convention, which is scheduled for 1991.

Nuclear & Weapons Control Bureau

Nuclear Weapons Nonproliferation

Preventing the spread of nuclear weapons to additional countries is a fundamental objective of U.S. national security policy. ACDA contributes actively and with a broad range of expertise to the development and implementation of policies designed to prevent nuclear weapons proliferation. ACDA's Nuclear & Weapons Control Bureau has played a key leadership role in this area, together with other senior U.S. officials. I would like to describe the central elements of U.S. nuclear nonproliferation policy in which ACDA is involved.

ACDA is the lead agency in the Executive Branch with regard to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), now with 140 signatories. ACDA seeks to ensure the widest adherence to and the most effective and efficient implementation of this important arms control treaty. Key to the continued success of the Treaty is the technical assistance provided to many countries in the peaceful application of nuclear energy. Through an ACDA-generated data base, this U.S. technical assistance is documented for each country.

Later this year, the fourth NPT Review Conference will occur. ACDA is actively engaged in preparations for the Conference and chairs an interagency group that oversees US preparations for the Review Conference. Two Preparatory

Committee meetings have been held and the third will occur in late March and early April. Our preparations also include consultations with our Allies, the Soviets, and neutral and nonaligned countries party to the Treaty.

ACDA also has had the lead within the Executive Branch for the Treaty of Tlatelolco, a Latin American initiative aimed at creating a nuclear-weapon-free zone in that part of the world. Twenty-three Latin American states are party to this Treaty and have forsworn the acquisition of nuclear weapons. The U.S., as a party to the Treaty's two Protocols, believes its entry into force for all states in the region would make a major contribution to the international nonproliferation regime and to increased security and stability in the region.

The International Atomic Energy Agency (IAEA) is a central element of the nonproliferation regime by implementing a unique multilateral system of safeguards designed to guard against the diversion of nuclear material to military uses. It also channels technical assistance to developing countries in the peaceful uses of nuclear energy. In addition, the IAEA has recently played an increased role in international cooperation in nuclear safety matters. ACDA's support for the IAEA, including the involvement of our staff in IAEA programs, is aimed at strengthening the Agency's ability to serve vital nuclear nonproliferation interests.

ACDA plays a major role in the area of domestic and international nuclear export control. Together with other agencies, ACDA is continuing its efforts to review carefully all nuclear-related exports and to thwart the illegal procurement of U.S.-origin goods for foreign nuclear programs. ACDA also participates actively in efforts to update international export control lists and to consult with other countries on national export control systems. With respect to "emerging supplier" countries, ACDA staff have been working with other agencies to promote responsible export policies by these new nuclear suppliers.

ACDA staff have played and will continue to play a leading role in the development of safeguards concepts applicable to increasing foreign use of plutonium. ACDA staff also will continue to work with the IAEA and other nations to develop physical protection and other institutional measures to reduce the proliferation risks associated with plutonium use.

ACDA continues to support efforts, as established by the President in 1981 and by Congress through the Omnibus Antiterrorism Act of 1986, to reduce international commerce in weapons-usable nuclear material as a means to reduce the risk of weapons proliferation and nuclear terrorism. ACDA is concentrating on promoting wider adherence to established international guidelines, such as the Convention on the Physical Protection of Nuclear Materials.

The effort involved in monitoring the nuclear programs and policies in countries of proliferation concern is considerable. Together with other agencies, ACDA is continuing to work to develop and implement policies aimed at encouraging these countries to take concrete steps to reduce the risk of nuclear weapons proliferation. Such steps may include monitoring of national nuclear interests and capabilities, bilateral agreements or understandings, evaluation of increased nuclear proliferation risks associated with new technologies, expanded coverage for IAEA safeguards, and acceptance of the NPT, or, in the case of Latin America, acceptance of the Treaty of Tlatelolco. Clearly, the spread of nuclear weapons to additional countries and regions of the world would seriously endanger the security of all states.

Conventional Arms Transfers

ACDA continues to meet its Congressionally-mandated responsibilities of reviewing proposed conventional arms transfers and military assistance to determine whether they will contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements. ACDA also participates in the development of proposed annual security assistance programs to ensure that arms control considerations are fully taken into account.

ACDA is currently staffing the U.S. delegation to the United Nations Experts Study on Measures for Promoting Greater Restraint, Openness and Transparency in International Arms Transfers. ACDA has also initiated, and will continue to pursue, new policy developments related to proliferation of advanced military capabilities such as aerial refueling systems and nuclear-powered submarines.

Missile Nonproliferation

Complementing our nuclear nonproliferation functions, ACDA has played an active role with other Executive Branch agencies in the development and implementation of policies concerning the control of nuclear-capable missile delivery systems and missile related technology. Since the establishment of the Missile Technology Control Regime (MTCR), in April of 1987, the United States and its partners have steadily increased their efforts to stem the proliferation of ballistic missile technology around the globe, with particular emphasis on regions of tension and conflict. Several members of the Regime have reformed their legal and enforcement systems to their undertakings under the MTCR, and efforts to expand the Regime are underway.

The United States has initiated missile nonproliferation dialogues with both the USSR and China, and will continue to work with both of these important missile technology supplier countries to constrain proliferation. The efforts of the MTCR partners to interdict the flow of Western technology to several specific Third World projects of concern have showed some progress. The United States has also initiated dialogues with key states in the Middle East and South Asia aimed at regional, political, and arms control steps to arrest missile proliferation.

Chemical Weapons Nonproliferation

The United States Government continued to focus attention in 1989 on chemical weapons proliferation and use. Throughout the year, ACDA played a leading role in various international conferences, multilateral meetings, bilateral meetings, and interagency deliberations on CW nonproliferation. Following the departure of the Secretary of State from the Paris CW Use Conference, the ACDA Director led the US delegation. In September, at the Canberra Government-Industry Conference Against Chemical Weapons, Ambassador Max Friedersdorf and expert ACDA staff provided valuable assistance to the delegation. In 1989, NWC personnel were instrumental in developing and implementing initiatives to address CW proliferation and use at the Australia Group meetings and at the fifth round of U.S.-Soviet CW nonproliferation bilateral consultations. ACDA will continue to initiate and support U.S. and international efforts to prevent the dangerous spread and use of CW.

Economic and Defense Analysis

ACDA's economics and defense analyses programs support the full range of Agency responsibilities and functions. The economics dimensions of arms control proposals and agreements are analyzed and reported upon. Among the problems currently being considered by ACDA's economics staff are the impact of military spending on economic growth of developing countries, the effects of cutbacks in military spending of developed countries, the prospect that military cuts in the Soviet Union could be reversed, and ramifications of worldwide defense resource allocation decisions.

ACDA maintains military and economic data on 145 nations; these data are used in research activities and are reported in the annual editions of World Military Expenditures and Arms Transfers. ACDA's military force and weapons analysts prepare the Administration's annual statutorily-mandated Arms Control Impact Statements document, which is provided to the Congress in both classified and unclassified forms. The ACDA division responsible for the above activities also performs the annual task of preparing and publishing the ACDA Annual Report to The Congress, a report which includes information on US arms control activities during the calendar year.

Verification and Intelligence Bureau

The VI Bureau, led by ACDA Assistant Director, Dr. Manfred Eimer, has a large and growing responsibility within the arms control process. During the negotiation of arms control agreements, the VI Bureau plays the central role within ACDA and the US Government for the development of effective verification regimes. In this process, the Bureau has played the lead in verification research efforts. During the implementation phase of arms control agreements, the VI Bureau is responsible for the assessment of compliance.

The sheer physical and manpower requirements associated with these responsibilities has grown rapidly over the past few years, and this growth will continue as treaties now under active negotiation enter into force. Moreover, we anticipate that in the coming years the arms control process will increasingly shift its focus from the U.S.-Soviet bilateral arena to the multilateral arena, posing a new set of challenges for verification and for the VI Bureau.

In negotiating an arms control treaty, every effort must be made to maximize the ability of the United States to verify subsequent compliance with the agreement. The VI Bureau thus has the responsibility of advising the ACDA Director and the President in drafting the most advantageous verification regimes possible. In this process, the Assistant Director and

VI staff participate in a multitude of interagency groups within the NSC structure, including the Arms Control Policy Coordination Committee and its subcommittees on Verification and Compliance and INF Treaty Implementation, and chairs important permanent working groups. The VI Bureau also regularly advises U.S. negotiating groups directly on verification issues.

In support of these efforts, the VI Bureau continues to conduct studies to improve the verifiability measures of future agreements. ACDA is working with other agencies to incorporate the results of these measures into the START, CFE, CW, and Nuclear Testing arenas. Our research into the verification implications of a Defense and Space Treaty are nearing fruition, as is our research aimed at achieving an overall picture of the value of various on-site inspection regimes for specific arms control verification applications.

These research efforts have been strengthened by the formation of a new interagency group to improve coordination of various US Government research efforts in the area of verification technologies for both NTM applications and on-site inspection. A representative of the VI Bureau co-chairs this group.

The VI Bureau also is responsible for the preparation of reports pursuant to Section 37 of the Arms Control and

Disarmament Act. In response to this requirement, VI prepared a comprehensive, classified assessment of the verifiability of the INF Treaty in 1988. We anticipate that such assessments will be prepared to address each of the treaties currently under negotiation. These new treaties pose additional challenges that the INF Treaty did not pose and will require a major effort by the VI Bureau.

Once agreements enter into force, the VI Bureau is responsible for the conduct of annual assessments of compliance and for the preparation of reports to the Congress on this subject. The VI Bureau, in coordination with the appropriate agencies, prepares for the President both the President's Report to Congress on Soviet Noncompliance with Arms Control Agreements, mandated by PL 99-145, and the report on Adherence to and Compliance with Agreements prepared pursuant to Section 52 of the Arms Control and Disarmament Act.

In the coming year, the VI Bureau will place additional emphasis on arms control treaty implementation. Cooperative measures incorporated in each of the treaties currently under negotiation will enhance verifiability. These measures, which include data exchanges and on-site inspections of various kinds, will require a major effort to provide implementing guidance, oversight, and analysis of the results. To facilitate this process, an ACDA Treaty Implementation Panel has been established. The Panel is chaired by the Director of ACDA, or in his absence, the Deputy Director. The Assistant Director for Verification and Intelligence serves on the Panel along with the General Counsel, the ACDA-appointed Principal Deputy of the On-Site Inspection Agency, the US Commissioners to the Standing Consultative and Special Verification Commissions, and as appropriate, the other ACDA Assistant Directors. VI's new Deputy Assistant Director, Dr. Edward Lacey, is the Executive Secretary of the Panel. In that capacity, he is primarily responsible for the direction of ACDA's treaty implementation efforts and for interfacing with the Principal Deputy and Staff of the On-Site Inspection Agency.

Operations Analysis and Computer Support

Within the VI Bureau, the Operations Analysis Division made substantial improvements to ACDA's computer capabilities over the past year. The obsolescent ACDA main-frame computer was replaced by a new system having six times the computing capacity of the former system. Additionally, ACDA analysts were provided with individual desk-top terminals to allow stand-alone computing or direct access to the main computer's large data base, as required.

ACDA's ability to perform strategic and conventional arms control modeling also was enhanced this past year through the acquisition of new computer models and data bases, and the upgrading of existing software packages. In the coming year, the Operations Analysis Division expects to devote additional computer resources to analyzing the potential effects of various arms control treaty options on strategic and conventional capabilities and on East-West stability.

In FY-91, ACDA's information retrieval data base will be further upgraded. This data base, which permits rapid, on-line access to arms control negotiating records, treaty texts, external research studies, and other arms control studies, is used widely throughout ACDA and is regularly provided to other US Government agencies and departments. Additionally, this year, draft treaty text and negotiating record data bases are being installed on personal computers in Geneva and Vienna for prompt, on-scene use by the U.S. START and CFE delegations.

Support Functions

In FY-91, ACDA will no longer be providing the primary administrative support to the numerous delegations overseas. This function will be carried out by the Department of State as is the typical management practice worldwide. This change will enable ACDA to devote its authorized resources exclusively to the substance of arms control and non-proliferation without the distraction and fiscal drain of purely administrative tasks.

ACDA will continue to update its office automation capability, which has been well received and utilized by ACDA personnel and has significantly enhanced the capacity and output of our limited staff.

In FY-88, ACDA's authorization provided for an ACDA Inspector General (IG). The IG staff has been familiarizing themselves with ACDA operations and has scheduled an active agenda for FY-91. In cooperation with the IG, management will continue to review Agency operations and programs to ensure sound management practices within ACDA.

FY-91 Request

Mr. Chairman, at this time I would like to submit to the Subcommittee ACDA's FY-91 appropriation request.

Last fall, when we started the FY-91 budget process with OMB, we worked to determine the priority for ACDA's mission, competing with other Agencies for funding within the framework of the President's budget submission. The result was a positive endorsement of ACDA's role in the arms control process from OMB and the Administration. Consequently, we were able to obtain approval for our current budget request.

As previously mentioned, ACDA is requesting $30,000,000 for FY-91. After backing out the overseas administrative support expenses from the current year's budget, this request represents an increase of $5,750,000 or 23.7% over our FY-90 funding level of $24,250,000 for ongoing ACDA activities.

As you know, more than 50% or $16,128,000 of ACDA's budget goes for salary and benefits. These funds provide for 228 FTE positions as well as additional reimbursable positions with personnel from other agencies, primarily the Department of State and the Department of Defense. This component of ACDA's budget includes one of the largest increases, $2,244,000, which provides for the addition of 10 new positions, the annualization of the current year's pay raise, the new senior level pay raise and other pay adjustments.

The other major increase as identified in our budget request is for external research. This request of $2,000,000 represents a ninefold increase over the FY-90 level of $200,000. These funds will be utilized to support research efforts focusing primarily on verification, particularly on chemical weapons.

ACDA is requesting $500,000 for a Sensitive Compartmented Information Facility (SCIF) that will meet the Agency's requirements for protection and use of Sensitive Compartmented Information (SCI).

A $264,000 increase in travel is being requested to provide for the increased pace of arms control negotiations. An increase of $110,000 in office automation requirements will be needed to continue our networking expansion throughout the Agency. Additional increases for support services, which we receive from other agencies, such as rent, printing, mail and maintenance and repair services make up the remainder of our request.

Also included in our request is $55,000 for representational funds. These funds are used primarily for informal contacts with representatives of foreign countries both here and overseas.

I realize that our FY-91 request for continuing ACDA programs is significantly higher than the current year's level. But in light of the escalating amount of negotiating activity with the Soviets and other countries and the other programs which ACDA is mandated to carry out, I believe that this level of funding is essential to our Agency's mission.

In closing, I ask for your support, Mr. Chairman, in obtaining Congressional approval for ACDA's FY-91 appropriation request. I, my staff and the members of our Geneva/Vienna delegations look forward to working with this Committee on the crucial and important arms control issues which we face today.

Mr. **Carr**. I would like to know if the budget request is $30 million?

Mr. **Lehman**. Yes.

Mr. **Carr**. That amount represents a reduction of $3,425,000 below our appropriations for you in 1990.

Mr. **Lehman**. That is correct. I should point out that the Administration budget request this year transfers the function of the purely administrative support for the Geneva Arms Control operations to the Department of State, to bring it in line with such operations elsewhere ~~in the world~~ and to try to reduce duplication efforts.

In fact, the budget reflects about a 23.7 percent increase in our actual operation funds, including research and, as I said, 10 additional personnel slots.

Mr. **Carr**. Where else in the State Department budget do we expect to see the increase?

Mr. **Lehman**. The amount of money for that operation would be found in various accounts in the State Department budget. They would take on the responsibilities that we had for that.

REQUEST TO OMB

Mr. **Carr**. What I would like to do is discuss first what your budget request to OMB was both in dollars and in positions.

Mr. **Lehman**. Mr. Chairman, we requested $44 million and 40 additional positions.

Mr. **Carr**. So you were reduced by OMB by about $14 million? Did that recognize the shift of Geneva support to State?

Mr. **Lehman**. No, it included that money in there.

Mr. **Carr**. By the mathematics here, you were cut about $5 million?

Mr. **Lehman**. You mean from our request in the internal process?

Mr. **Carr**. Right.

Mr. **Lehman**. That is correct. As you know, these are times of tight budgets. Few, if any, other departments and agencies can demonstrate an increase in operating funds of 23.7 percent.

Mr. **Carr**. As you just said, given the rapidly changing world events, your agency is right on the front line and being asked to do more.

Mr. **Lehman**. Indeed, and we are working night and day at it.

Mr. **Carr**. It is hard to do more with less. It is one thing to do better and do it with less. It is very hard to do more and do it with less.

Mr. **Lehman**. We are trying.

Mr. **Carr**. This is no fault of yours. I think most of us here understand the effort that you are putting forth. Over at OMB they apparently don't appreciate what you do.

Well, let me ask you, about that $5 million—what are you not going to be able to do that you wanted to do with that

Mr. **Lehman**. Mr. Chairman, first let me say that I don't believe that OMB views what it did on the ACDA budget as depreciating the importance of the agency and what we do. They were faced with very tight budget constraints.

Even in that tight regime, I think they would argue that they did their very best for us.

In fact, they tried to find a way in which we could have the resources we need for our substantive work and have the people we need.

Having said that, clearly we are interested in a number of things. One is that as the arms control agenda has expanded, we felt we needed more people to address the increase in the number of negotiations and the intensity of those negotiations.

RESEARCH ON ARMS CONTROL

In addition, it is our feeling that ACDA has an important role in leading the community in research on arms control related activities, and verification technologies.

We can never have the kind of money that, for example, the Department of Energy or the Department of Defense have. I have to tell you that one of the ways we try to get the most out of the money we have is by trying to work with them to see if they can focus their efforts in ways that are helpful to the arms control process.

Having said that, it is much better if we have money that we can put into a project, even if it is only a small amount. It is a good faith effort, and it makes us a paying part of the project and gives us more influence on how that money is spent.

I inherited a budget of $200,000. There is no way that you can have the kind of influence that you need on guiding verification research and other research in arms control with $200,000. This year our request is $2 million.

That is a tremendous increase from where we were, but actually it is, if I may use the expression, chicken feed compared to what other departments and agencies have to put into this effort.

We are opening new horizons in arms control, and it requires some innovative thinking, particularly in things like verification technologies. We were looking for more money in that area as well.

Mr. **Carr**. Well, I think it is mighty sorry they didn't agree with your request. How much did they give you?

Mr. **Lehman**. They gave us 10 of the 40 slots and they gave us $2 million in external research.

Mr. **Carr**. Would you submit for the record a breakdown of research that you would anticipate supporting?

Mr. **Lehman**. I would be glad to.

[The information follows:]

EXTERNAL RESEARCH PROGRAM

I. The External Research funds in FY-91 would be used for research in support of the following arms control areas:

Chemical Weapons Verification ($900,000): This work will address the following issues: (a) Identification of means to detect and identify clandestine production and storage of chemicals and chemical weapons; (b) Evaluate current programs for the collection and analysis of possible samples of chemical, biological, or toxin agents or weapons; (c) Conduct trial inspections in order to establish procedures necessary to verify declared and permitted activities under an eventual CW convention; (d) Support for US/USSR confidence building data exchanges and facilities visits; and (e) Coordinate CW verification related research and development programs being carried out by other agencies, in the private sector, and internationally.

START ($300,000): This work will include: (a) Projects for analytical and verification support of strategic forces for the evaluation of arms control options, verification requirements and procedures and quick response tasks in support of the START negotiations; (b) ACDA support for the interagency crisis stability study; (c) Red Team evaluation of START: (d) Tagging for verification; and (e) JASON support.

CFE ($250,000): This work will include: (a) Projects for analytical and verification support of conventional forces for the evaluation of arms control options, verification requirements and procedures and quick response tasks in support of the CFE negotiations; (b) Red Team evaluation of CFE.

Non-proliferation ($250,000): This work will include: (a) Support for the 1990 NPT review conference; (b) Nuclear export controls; (c) Safeguards regimes for space launch vehicles; and (d) Assessment of proliferation risks posed by the advanced reactor and fuel cycle concepts.

Others ($200,000)- This work will include : (a) Treaty Text Management Study; (b) Improvement for WMEAT computer program; (c) Cooperative verification efforts with the Japanese and the Canadians; (d) Missile/space negotiating issues; (e) Defense and Space and ASAT verification measures; (f) GEM Studies and (g) CORRTEX Improvements.

Director's Reserve ($100,000)- Primarily for back-stopping the NST Delegation and quick turn around analysis for priority projects that are difficult to predict in advance.

Mr. **Carr**. Is your authorization for fiscal year 1991 sufficient to support your budget request?

TRANSFER OF GENEVA ADMINISTRATIVE FUNDING

Mr. **Lehman**. Yes, it is. Now that assumes that the Administration budget would be supported. That means that the purely administrative functions in Geneva would be funded out of the State Department budget.

Mr. **Carr**. Does that require authorization language to switch that around?

Mr. **Lehman**. Our belief is that it is not required because this is not a transfer of appropriated funds. We are requesting—they will be requesting the appropriated funds.

The State Department will be requesting the appropriated funds. Since our budget is within our authorization ceiling, it is our belief that no additional authorization is necessary.

Since I am under the authorization ceiling in my request, I think it is our belief that we don't need additional authorization. Of course, if we were to have to continue the function of Geneva, then we would be constrained by our authorization ceiling.

FY 1990 SEQUESTERED FUNDS

Mr. **Carr**. How much was sequestered from your 1990 appropriations?

Mr. **Lehman**. $451,000.

Mr. **Carr**. How did you apply that?

Mr. **Lehman**. We administratively absorbed it.

Mr. **Carr**. What does that mean?

Mr. **Montgomery**. We managed to come up with $451,000. It is not in any one place. It is spread out in our budget.

Mr. **Carr**. You blocked it across the board?

Mr. **Montgomery**. Mr. Chairman, this is similar to the approach we have to take when we have to absorb pay raises and things like that sort.

We have to go into our accounts and see where we can most easily affect administrative reductions. That is what we did in this case to get our fiscal year 1990 appropriations after we sequestered the money.

Mr. **Carr**. If you could give me more detail, I would appreciate it. If you did it across the board, that would be one thing. Just tell us that.

On the other hand, if some account took a bigger load than some other account, then you might give us an explanation.

Mr. **Montogmery**. We will provide you a detail on that.

ACDA REORGANIZATION

Mr. **Carr**. You submitted a reorganization proposal to the committee recently.

I would like to ask you what the purpose of this reorganization was, and will it result in any reductions? What impact will it have on your overall budget?

Mr. **Lehman**. First of all, it should not result in any change in the basic grade structure or the budget. What it was designed to do was to focus our activities on those priority arms negotiations that we are faced with.

As a part of this, we are to be reallocating some resources and slots to take into account changes in the negotiating pace.

Let me give you one example that I think will jump out at you and explain what I mean.

The Multilateral Affairs Bureau in the Arms Control and Disarmament Agency has typically had the U.N. activities, including the Committee on Disarmament, and the conventional arms negotiations typically MBFR and it had the nuclear testing issue, which was a number of years ago, largely a Committee on Disarmament issue.

I think if one looked at the pace of activity in each of these areas three or four years ago, one would have said that things are very steady, moving at a very slow pace.

Look at the situation today. I have two conventional arms negotiations in Vienna, the so-called CFE and the confidence and security building measures.

I have the bilateral and multilateral chemical negotiations in the CD, one of which may result in a treaty or agreement this year. The other one is following relatively closely behind and is working at a very rapid pace.

In addition, we have the nuclear testing talks, NTT, which are supported out of Multilateral Affairs. They now have the protocols to the Threshold Test Ban Treaty.

Those negotiations are worked at a very intense pace. Meanwhile Multilateral Affairs, which has three of the most active major accounts, in essence, six treaties or agreements that it is working on, is my smallest bureau.

Well, that doesn't make sense. What the reorganization seeks to do is to basically give Multilateral Affairs two major areas of focus: the chemical weapons/U.N. account and the conventional arms account.

I will be moving the nuclear testing account over to another bureau where I have my predominant number of nuclear physicists and people with that expertise. We will have the nuclear nonproliferation account and the nuclear testing account co-located in the same bureau where we have people who have those technological skills.

I brought in a second deputy assistant director to work in the Multilateral Affairs Bureau to give me focus on the chemical weapons area while my other deputy assistant director can focus on conventional. The idea is to give each one a span of control that is effective and give them the resources necessary to do the job.

My situation now is I have one person who is basically involved with all of these negotiations and is spread awfully thin for the amount of work load we have got.

The basic structure of ACDA, I think, is sound. I think there are some things that needed to be done to give us more focus.

In addition, Congress has enacted legislation that gives us the opportunity to bring back the position of chief scientist. We are establishing an Office of the Chief Science Adviser. That is something that will be very useful to us, I think.

Mr. **Carr**. Given your reorganization, it would be helpful to us, I think, if you could supply us with some organizational charts.

Mr. **Lehman**. I will be glad to.

Mr. **Carr**. It gives us a better picture as to who is doing what. Break it down by the various negotiation teams, too.

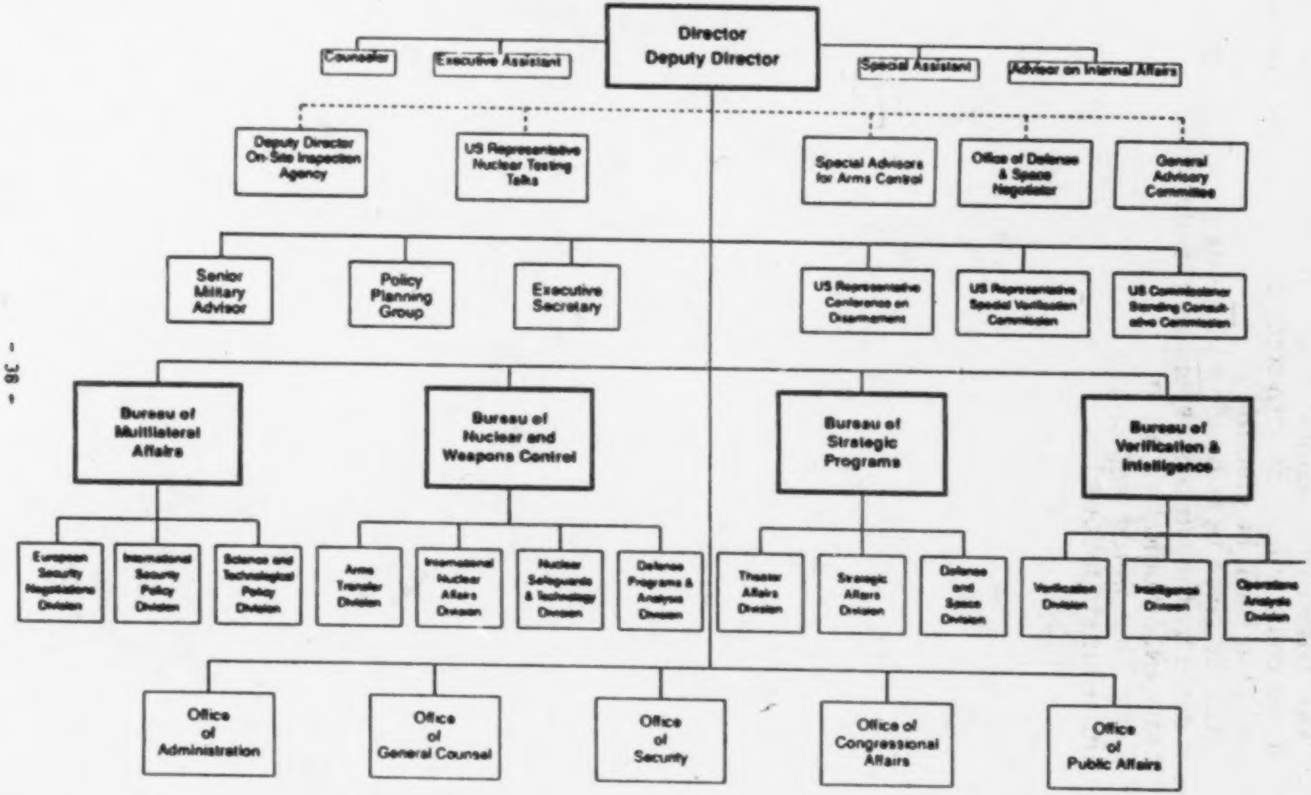
Mr. **Lehman**. I would be glad to.

Mr. **Carr**. That would be helpful.

[The information follows:]

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

(December 31, 1989)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Deputy Director
Counselor
Executive Assistant
Special Assistant
Advisor on Internal Affairs
Deputy Director On-Site Inspection Agency
US Representative Nuclear Testing Talks
Special Advisors for Arms Control
Office of Defense & Space Negotiator
General Advisory Committee
Senior Military Advisor
Policy Planning Group
Executive Secretary
US Representative Conference on Disarmament
US Representative Special Verification Commission
US Commissioner Standing Consultative Commission
Bureau of Multilateral Affairs
Bureau of Nuclear and Weapons Control
Bureau of Strategic Programs
Bureau of Verification & Intelligence
European Security Negotiations Division
International Security Policy Division
Science and Technological Policy Division
Arms Transfer Division
International Nuclear Affairs Division
Nuclear Safeguards & Technology Division
Defense Programs & Analysis Division
Theater Affairs Division
Strategic Affairs Division
Defense and Space Division
Verification Division
Intelligence Division
Operations Analysis Division
Office of Administration
Office of General Counsel
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Office of Congressional Affairs
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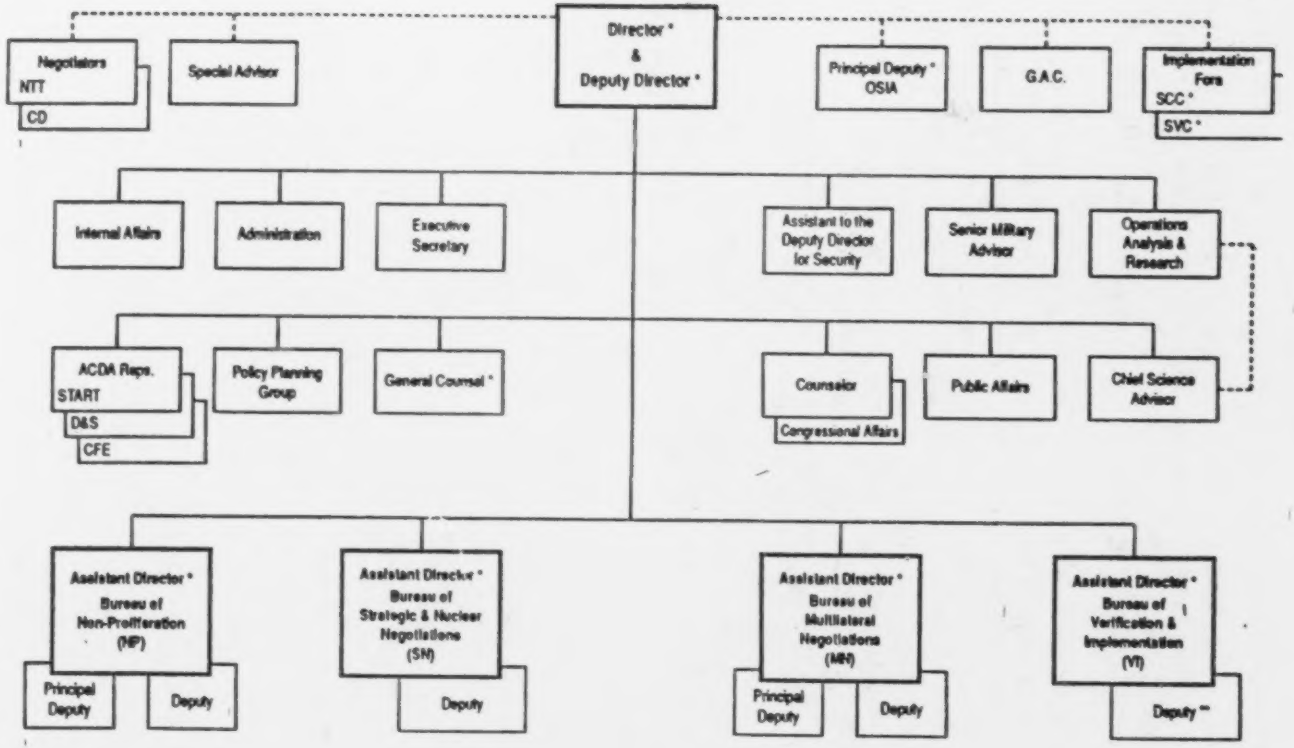
February 5, 199


Negotiators
NTT
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Special Advisor
Director *
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Deputy Director *
Principal Deputy *
OSIA
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Implementation Fora
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SVC *
Internal Affairs
Administration
Executive Secretary
Assistant to the Deputy Director for Security
Senior Military Advisor
Operations Analysis & Research
ACDA Reps.
START
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CFE
Policy Planning Group
General Counsel *
Counselor
Congressional Affairs
Public Affairs
Chief Science Advisor
Assistant Director *
Bureau of Non-Proliferation
(NP)
Principal Deputy
Deputy
Assistant Director *
Bureau of Strategic & Nuclear Negotiations
(SN)
Deputy
Assistant Director *
Bureau of Multilateral Negotiations
(MN)
Principal Deputy
Deputy
Assistant Director *
Bureau of Verification & Implementation
(VI)
Deputy **

* Member, ACDA TIP
** Executive Secretary, ACDA TIP

CONGRESSIONAL OBSERVERS FOR ARMS CONTROL NEGOTIATIONS

Mr. CARR. You know, one of the things that I think hits home to a lot of the Members of Congress, in particular, is our relationship with negotiations. I know myself, I have been offering the arms control negotiations appointed by Speakers O'Neill, Wright and Foley.

In signing the 1990 and 1991 Foreign Affairs Authorization Act, the President stated nine provisions of the Act represented an unconstitutional intrusion into his right as President to conduct foreign policy. One of those conditions was aimed at requiring the Administration to accept Congressional observers at the conventional arms negotiations in Geneva. Having just returned from Geneva in October and finding it most productive, why shouldn't Congress have a role provided in law for these negotiations?

Mr. LEHMAN. Mr. Chairman, as you know, this particular issue has got a very long history. We have, in fact, recognized the important role that Congress plays.

We have worked closely with the House and Senate observer groups as well as with the authorizing and appropriating committees to urge them to go to Geneva to see for themselves how the negotiations work. In this particular case what was involved was legislation.

In essence, it would prevent the Executive Branch from using funds for a vital negotiation unless in essence a congressional staff member were made a part of a negotiating team. The view of the Executive Branch is that this is an Executive Branch function and that it is improper legislation under the Constitution.

The decision was made to sign the bill, but with that caveat.

Mr. CARR. Of course, we certainly appreciate the signature on the bill, but didn't appreciate the slap in the face. In today's modern world it seems to me that particularly where money is involved and a Congressional agreement, both in implementation of a treaty and then the formal ratification of it, requires some congressional action. You can't expect people to be there on the landing if they are not there on the take off. And the wisdom of the Congressional observers is correct.

I think it is just too bad that the President doesn't see it in a more constructive light. I have been doing this a long time, and I don't know of any area when it hasn't produced results.

It may be a nuisance to some people not to have to deal with people they would ordinarily not otherwise have to deal with. But I can tell you from this side of the desk that the learning experience there and the opportunity to support the Administration on what the final product will be is so very great by having the opportunity to go and ask questions and to get into details.

I think if that weren't the case, the difficulty in getting these things accepted later on would be much, much greater. Congress just doesn't have a role in foreign policy, too. It is not the total domain of the President, although it is certainly preeminent. Folks can look at it day-to-day in a way that we can't. However, that was a mighty unproductive thing for him to say.

I have a few more questions, but I will pass the time to my colleague from Kentucky because I have been talking a little while now.

Mr. Rogers.

INCREASED PACE IN ARMS CONTROL ACTIVITIES

Mr. **Rogers**. Thank you, Mr. Chairman.

Mr. Lehman and staff, good to see all of you again.

With all of the acceleration that has been going on in the last few months in disarmament, you have got so many negotiations going on, I don't know how you keep track of it. Aren't you about to become overrun with the speed of events?

It is almost as if this very quiet, slow working, prodding work that you have been doing, albeit well, has been going on all the while.

All of a sudden you find your Model T out in the middle of the Indianapolis 500 with all of these negotiations going on. Aren't you about to become overrun with the different talks that are taking place?

Mr. **Lehman**. Congressman Rogers, I don't think so for a number of reasons. I must say that let there be no doubt we are working very hard. There are a number of fast breaking developments.

We have to make sure as we push ahead in each area that we are taking into account the realities of the world around us. I have joked on an occasion or two that sometimes I feel like a chess player sitting at the board in the middle of a basketball court during the game because when one sees what is happening in it, in Eastern Europe and in the Soviet Union, one recognizes that it creates tremendous opportunities, but also tremendous risks.

But I think in each of the negotiations, I think we are on top of it. In the case of START, we were very far along.

We had some 450 pages of joint draft text at the beginning of this Administration. It has gotten longer since then. But we have begun to resolve important issues.

We kind of know where it was going. It was a matter of, would the Soviets be willing to agree to fair and equitable deals.

They seem to be willing to. START is now truly the in game.

Mr. **Rogers**. Aren't these deals being cut at a sort of higher level? The deals are really being cut by the President and Mr. Gorbachev and others.

I gather you had your input into that, but that most of these issues being discussed in the White House are they not?

Mr. **Lehman**. I have been a full participant in all of those discussions on our side. I have been on the scene in each of the major negotiations where we brought things to closure.

I think our agency has an important role to play. In addition, as the director, I have a very important role to play.

Let me also say the biggest mistake one can make is to have a disconnect between the decisionmaking at the highest levels, therefore, we in the interagency, do participate and coordinate these things very closely.

In the Moscow ministerial, I was there with Secretary Baker, as were our negotiators, as we brought many of these issues to closure.

Mr. **Rogers**. Well, you are doing good work. We are making heady progress.

We have witnessed the Malta Summit, and the accelerated pace of talks with the Soviets. The START treaties plan to be completed this year. With the substance of issues resolved in principle by June, I am told, Bush and Gorbachev are committed to completing the CFE this year. Also, an agreement has been reached to speed up the pace of chemical weapons talks in Geneva. Yet you come to us asking for less money than you requested last year. I understand that $9 million in your present budget is requested as part of the State Department's FY91 base request. That accounts for a good part of the overall reduction. You are also asking for 10 additional positions. Perhaps you could spend a couple of seconds on that transfer from your agency to State and also what you plan to do with the 10 new positions.

Mr. **Lehman**. Yes.

TRANSFER OF GENEVA ADMINISTRATIVE FUNCTIONS TO STATE

On the transfer function, technically we are not transferring any money. The State Department is making a request for its appropriations. It includes this function. We are making a request for our appropriations, but it no longer includes that function.

In Geneva there has been an evolution in how the various delegations that have been there over the years have been supported. In Vienna, for example, they are essentially a State Department mission funded and managed completely out of the State Department.

In Geneva the ACDA operation in the period immediately, prior to 1985 was largely a separate operation. In 1985 the Nuclear and Space Talks became a State Department mission, but, ACDA had the responsibility for administrative support.

At that time the Nuclear and Space Talks delegation was located in the Botanic building. For reasons which I think I could explain in closed session, a decision was made to move the delegation into the U.S. mission.

That U.S. mission exists to support the Geneva U.N. operations. So you had two State Department missions colocated in the same building, one of which got its support from the State Department, and one of which got its support from the Arms Control and Disarmament Agency.

Although in many cases what we would do was basically write a check to the State Department to perform functions for our people there.

It was suggested that some duplication might be reduced if this function were to be transferred to the State Department. In the context of getting the additional manpower and operating resources, we need, I agreed to that.

I think, we have done an excellent job in support of the mission there, but I will do everything as director of ACDA to ensure that our negotiators in Geneva do not suffer as a result of the transfer.

ADDITIONAL STAFF POSITIONS

On the manpower slot, the 10 slots, I mentioned Multilateral Affairs and this tremendous new work load that has settled there. Three of the slots would be for multilateral affairs. Two of the slots are for verification.

As those negotiations expand, the amount of verification work expands. In particular, in the area of chemical weapons, this is an area of great interest to the President.

It is also one of the areas we have the greatest difficulty coming up with a procedures and technologies that would meet our standards of verification. We need more work there. We need people who are experts in that area to focus on that.

Conventional arms control is moving out at a tremendously rapid pace. As our discussions with the allies and with the East go on, we are discovering that more and more we need to think not just in terms of how we would do business, but how do we solve problems that are made more complex because of the presence of 23 nations, not just two? This takes a tremendous amount of leg work.

Our manpower is really stretched. The strategic arms negotiations are continuing at a rapid pace. I would like to pull in at least one more professional within the 10 to go there.

Nonproliferation remains a very important objective of this Administration. I think a lot of people don't understand the area of nonproliferation, there is no one treaty that you go out and you create and it make chemical weapons proliferation be solved or missile proliferation be solved.

It is a lot of hard work and it takes a lot of man hours, because you are working at a lot of specific issues with wide variety of countries. I need at least one more person there.

Having said that, let me say, I think we have been very candid with this committee and it's staff on what we would like to do to make ACDA be not just a well run agency, but a model agency.

There is no reason why when you have the kind of talented people we have, they ought not to not only get the best administrative support, but they ought to, in fact, run a model agency

We have been pleading for administrative support for quite some time in order to support a very dynamic negotiating agenda.

At some point you have got to make things work. We need at least one more person to go into our administrative shop to make sure that we don't have security problems, that we don't have problems with any of our budgetary items and with any of our support for our people.

Finally, two of the slots are for the General Counsel's Office. This really goes to the heart of what is my agency.

People ask why is there an Arms Control and Disarmament Agency. We have the only agency that has a mandate to focus on arms control.

Everyone is interested in arms control, but they all have a slightly different perspective. You can't expect that the State Department, with all of its bilateral and multilateral concerns, to be focused so specifically on the question of arms control.

The intelligence community is the same. They have a great interest in it, but their focus is a bit different.

The same in the Pentagon with OSD and JCS. Arms control matters a great deal to them. But they are not the departments that should focus on arms control. You need somebody to make the case for arms control. That is us.

If you look for what does that mean, it means a number of things.

One is to look for innovative policy ways in which arms control enhance our national security. A lot of us have the expertise and experience that people can look to to make sure this process works effectively.

Mr. ROGERS. Let me switch you off to verification.

Mr. LEHMAN. That is why I need two more lawyers.

I want to have the best legal staff in town with respect to each of the negotiations and with respect to the whole question of arms control and the law. I need two more lawyers.

VERIFICATION AND COMPLIANCE ISSUES

Mr. ROGERS. Let me discuss verification issues. The President annually submits a report to the Congress outlining areas and instances of Soviet violations with existing arms control agreements.

You obviously contribute significantly to its preparation. Previous reports have been very critical about detected violations by the Soviets.

This year's report, while expressing continuing concerns about possible violations, points out that the Soviets appear to be taking, quote, "significant actions to resolve U.S. concerns," end quote.

The biggest single U.S. victory in that regard, if you can call it a victory is the Soviet admission that the Krasnoyarsk radar was a clear violation of the ABM Treaty and its decision to eliminate that station.

Is there a dramatic change of attitude we have toward the Soviet's intent on living out the previous agreements and possibly new agreements? Is there a new Soviet intent?

Mr. LEHMAN. There may well be a new Soviet intent.

With respect to the compliance report, we have taken the approach of let's tell it the way it is. Let's lay out the facts. The facts are that they have been, begun to address areas of concern.

It hasn't always been perfect. But I have to say with respect to many of the major issues that have been out there, most notably Krasnoyarsk where they have reaffirmed to us in Moscow two weeks ago they are going to tear down the whole radar. That, to us, is a major break through.

There have been other areas. We had ambiguities with respect to the radars at Gomel.

While not all the procedures were done exactly the way we thought they agreed to do them, nevertheless, we were able to take those questions of compliance off the books. In a number of other areas the Soviet Union has stated to us where we have concerns, they seek to address them. They made proposals.

I have to say it is a much better climate. To the degree the climate is a measure of intent, I have to say it is a better situation.

That isn't to say there haven't been problems. There have been problems on both sides. As we work INF, neither side has been completely perfect. There have been some problems. There has even been a violation, but we think that is resolved.

Mr. ROGERS. The Soviets seem extremely agreeable, from what I hear, to almost as much verification as we want. If that is true, what is Gorbachev's strategy in all of this?

Mr. LEHMAN. Our assessment about our strategy over this probably changes. It used to change about every year. Now maybe it is getting even faster.

We used to joke, or we used to say that the Soviets would never agree to anything in principle on verification.

If you were a tough negotiator, you might get a few provisions. Then we used to joke ~~that they~~ agree to everything in principle and verification, but you still have to be a tough negotiator to get the provisions.

Now we find cases where they appear to agree to even more than what we have proposed in order to reach agreements.

I think that my interpretation is that they have decided that they do not want the verification issue or the compliance issue to stand in the way of the improved East-West relations.

If that means opening up their society in ways they have never done before, they are prepared to do that. Let me say with, I think a little bit of pride for those of us in the arms control business, that maybe one way in which we have in our own way helped the whole question of political glasnost there is a sense in which military glasnost reinforces the political glasnost process.

When I was with the Defense Department, I was with Secretary Carlucci when we went to the Soviet Union. I actually stood under a BlackJack bomber and looked into the bomb bay and saw the cruise missiles sitting in there.

Later I asked a reporter from a Soviet newspaper what had been the impact of the Carlucci visit and all of these inspectors under the Stockholm and INF on the Soviet Union?

And he said, well, you know, we say to our officials, if you can show these things to the Americans, why can't you show them to us?

I think that in our own way demanding openness in the arms control process has helped undermine the State security mentality in the Soviet Union. I think in our own way we have helped the political process.

POLITICAL EVENTS IN EASTERN EUROPE

Mr. ROGERS. Well, in the last year, we and the Soviets have created momentum on every major area of arms control—strategic, conventional, and chemical. At the same time the political events in Eastern Europe are out-racing both countries changing military doctrine.

The U.S., and I guess the Soviets too, are groping to keep pace in this new world. I saw a Soviet expert on television from over there back a couple of weeks ago say we don't think you, Americans, can live without an enemy.

There is a lot of truth to that. We have always focused on somebody as being our enemy, and therefore it forced us to prepare and so forth.

But the events in Eastern Europe are occurring so rapidly, the world has changed so rapidly that, in fact, I am not sure we are settled on our new military doctrine to face that new world.

How does that complicate, if it does, your work?

Mr. **Lehman**. Let me say in a way we are all anticipating changes that will be even greater than we expected because we have already experienced changes that have been greater than we expected.

Those bigger changes haven't really taken place yet. We see them beginning, and we assume they will follow through. For example, the Soviet Union hasn't withdrawn from Eastern Europe.

They still have huge forces in Eastern Europe. But we anticipate, for example, in their agreements with Czechoslovakia and with Hungary that, in fact, they will be withdrawing from those countries.

We can anticipate there may be a time in which the Soviet military presence in Eastern Europe is either gravely diminished or zero. It isn't there yet.

The treaties that we are negotiating, for example, the CFE agreement, is designed to accommodate, to limit the degree to which the Soviet Union could keep forces both on its own territory and stationed on other territory.

But it is designed not to legitimize their presence in nations where they are not wanted.

So I think we are trying to design that treaty in consultation with our allies.

In consultation with Eastern European countries to take into account the most likely changes, I can't rule out that something might happen that none of us expected and we might have to revisit a provision or something.

Basically the CFE treaty is designed to take into account the changes that most people anticipate.

START really reflects the reality that the basic Soviet modernization program has been underway and that the Soviet Union will remain a major strategic nuclear power along the lines of the START treaty.

DEPARTMENT OF DEFENSE BUDGET

Mr. **Rogers**. I am on the Budget Committee as well. Of course, the Congress is forced by its own democratic procedure to come up with an overall military budget recommendation.

The discussions that we have been having over the last several weeks, some of them formal, others more informal, revolve around how much money we are going to put in the budget resolution for defense. That is a 64,000 dollar question.

All the while you are over there negotiating with the Soviets and others on how many troops we are going to have in Europe on either side, the Budget Committee is over here deciding the same thing.

And the budget resolution, which we have got to adopt by April 15, very well may say or may dictate that we withdraw "X" number of troops from Europe, which may very well undercut what you have been negotiating with the Soviets. I hope it doesn't happen, but it very well could.

Do you see a way around that? Do you have any advice for the Budget Committee and the Appropriations Committee as we go about making up the budget resolution?

Mr. LEHMAN. We believe the Administration's defense budget request is consistent with our arms control efforts. I really would urge you not to get out ahead of the arms control process.

On the other hand, you have to make your budget decisions. We understand that.

But, I think that, for example, with respect to the actual provisions of the CFE Treaty, I think they are consistent with the Administration's budget request.

Mr. ROGERS. Thank you for being here today.

STAFFING FOR CFE TALKS

Mr. CARR. Mentioning conventional forces in Europe, when we were there in October we were told that there was a staffing problem not only on our side, but with those of our partners. There was at that time, anyway, a doubling up of their personnel, our NATO partners' personnel, on the CFE talks.

It was taking a great deal of time to turn around suggestions and proposals not so much on our side, but among our partners. Has that situation cleared up any?

Mr. LEHMAN. It is better. Let me say it is partly better because many of the allies do not have the kind of arms control infrastructure that we have and it is necessary to follow the complexity of some of these issues. Now they have invested in people. These people have experience. I think by and large it is much better.

The second thing is that by and large the focus now has been narrowed. We are in essence filling out the final details of the Western position.

The issues that we are now faced with, the range of outcome is smaller and smaller. That made it easy for some of the nations to understand what the exact implications are for them.

I would say it is not perfect, but it is much better.

WARSAW PACT CFE POSITIONS

Mr. CARR. Similarly, we had the privilege of meeting with all the negotiators on the Warsaw Pact side.

I can recall the meeting running along the lines of the geopolitical situation at the time, for example, the Polish negotiator was quite willing to dissent from what the Soviet negotiator was saying.

At that time the Bulgarian negotiator was sitting there in lock step. Since October a lot of things have changed in Bulgaria.

I am wondering how the rapid changes in government—not just policies, but total government and staffing—have impacted on the Warsaw Pact side and how they are trying to grapple with the problem of CFE. Can you bring me up to date?

Mr. LEHMAN. I believe I can.

On the Eastern side they are clearly not in lock step anymore. Indeed, in many ways because the West has had to operate in a truly democratic process in which we take into account everyone's concerns, I think there is almost more continuity in Western positions even though we have often looked fragmented compared to the East in the past.

The East has far more diverse views because they are still trying to sort out where they want to be. We have new governments that have come into being.

In some cases they are just now beginning to look at all the implications of the process. I was in Warsaw and Budapest not long after the Berlin Wall opened.

I, in fact, by chance had been in Berlin two days after the Wall opened. I thought that was amazing. You know what all has happened since then.

I think they are still trying to find their way. One thing is clear. Their first rule is to look out for their own countries. That is a very positive development.

Mr. CARR. Just in terms of personnel, how they handled it, did they reshuffle their personnel rapidly? It seems to me that when we were there, Poland and Hungary were well along the track to democracy and had made some substitutions and or attitude changes in their negotiators, and the rest were still in the Brezhnev era.

I know through personal communications with Czechoslovakia that it hasn't been very easy for them. People who have seized power are people who are not very experienced at the business of government.

There isn't a large pool of talent in government affairs beyond the old communist regimes. They are trying very hard to restaff.

I guess the question is, what kind of importance do they put on the CFE talks, and are they getting new talented people to the bargaining table or are they able to change the attitude of the old ones who are there? How are they doing it?

Mr. LEHMAN. I would say across the board it is clear they are very much committed to getting a CFE treaty. The impression I have is that the new governments of Eastern Europe are persuaded that such a treaty is important to create the conditions of stability that permit further political change.

Some of them are as exactly as you have described.

They now have new governments, but they don't have a pool of people who are experienced in all of these issues. In many cases, in fact, the faces are the same. The words are not the same. The words are changing rapidly, even when the faces are the same.

CFE TALKS REDUCTIONS

Mr. CARR. I have a question about the current plan at CFE that calls for 10 percent reduction in the first phase and 25 percent in the second phase and moving to stabilized defense in the third phase.

Given that these treaties take some time to consummate, and the real payoff comes in the third phase, why not reverse the order of phases two and three?

Mr. LEHMAN. You mean to have sort of the defensive stabilizing measures before the next step cut?

Mr. CARR. Yes.

Mr. **LEHMAN**. There is a sense in which that may happen in any case. I should point out that the 25 percent number is really the old Eastern proposal.

What we have said is that there would be a follow-on negotiation. Our position, as we have described it, is that it would look at further reductions and it would bring in essence phase three into phase two as well.

I think we are thinking along the same lines.

Let me say also that even before we get to that follow-on, you should be aware that things are moving fairly rapidly in the CSBM talks now and there are measures being negotiated there that go to the question of stability.

In addition, as you can see, when you start talking about the question of German reunification and the discussion of what kind of transition you will have for what is now the GDR, and you are looking at the situation in which the Soviet Union will be out of Czechoslovakia and out of Hungary very shortly and will have diminished if any presence in what is now East Germany, one begins to realize a lot of the so-called stabilizing measures that people were proposing are sort of in the noise compared to the implications for European security of that Soviet withdrawal. A lot is happening just de facto.

Mr. **CARR**. I suppose we can wonder whether the GDR and the FRG representatives are sitting next to one another at the table?

Mr. **LEHMAN**. I will bet they are talking a lot more than they used to.

STRATEGIC DEFENSE

Mr. **CARR**. Switching over to strategic affairs, I want to applaud again the Administration's proposals on depressed trajectory ballistic missiles.

It is something some of us in Congress have been working on for a long time. Over 10 years ago Congressman Downey and I were on the Armed Services Committee working on it.

We had hoped that the Soviets would snap this proposal up. But they seem to have become evasive on this issue. Can you account for their unresponsiveness? What is driving their evasiveness?

Mr. **LEHMAN**. I can only speculate. Perhaps in a different format I could speculate in perhaps more detail.

Let me say that it may be that they see this as something that would pin much on them more than it does on us. It may be that they are still looking at it from a technical point of view to see what its exact implications are.

Or maybe they think since we have asked for this that they ought to try to extract a price for it, but they have not put such a price forward.

We had a situation back in 1988, just before the Moscow summit, in which we decided to propose to the Soviet Union that we break out of the START Treaty and—I had been the START negotiator prior to that—that we break out of the START Treaty the advance notification of all ballistics missiles launches.

In the past I advised against this on the grounds that the Soviets would bog us down with all of these discussions of their agenda of aircraft free zones and ASW free zones and things of that nature. We broke it out at that time because it seemed to us something in the interest of both sides.

When they brought up their other agenda, we simply said, all right, then we won't have anything of this nature to sign at the summit.

They changed their mind. They said, no, you are right, it is in the interest of both sides. Let's do it.

I hope after they examine our short time of flight proposal, they would come to the conclusion that it is probably something in the interest of both sides.

Rather than encumber it with all kinds of quizzes and tactical gamesmanship, they would simply say let's work out something.

Again, your question is based, I think, on an accurate assessment of the situation which they have not shown a lot of interest.

Mr. **Carr**. Just a personal matter, I don't know that anyone else on the Committee is that interested, but there are new developments. I hope you send somebody up to give us a briefing on it.

Mr. **Lehman**. I would be glad to.

Mr. **Carr**. OK.

ASAT CONSIDERATIONS

You know, since we have retired the SR-71's, we are more dependent than ever on our military satellites. That means that an effective Soviet ASAT could be many more times severe a loss than we would gain from acquiring a capability of our own.

Our Chief of Naval Operations and two Air Force chiefs of staff have all testified that given the choice between both competing powers having effective ASATS and either side having any, an ASAT-free world would be better.

The problem is that the Administration seems to not consider this very important, and is not making proposals to control Soviet ASAT capability. Our hope is that this Administration bring the same fresh eye to that problem as it did to depressed trajectories. Can you comment?

Mr. **Lehman**. We have done our preliminary studies. We have come to the conclusion that we don't see a comprehensive ASAT ban in the cards.

I think you have captured the spirit of the issue in noting that, you know, we are heavily dependent on space. The existence of ASAT capabilities is a threat to important assets of ours.

But at the same time, I think there is a feeling that we live in an ASAT world, that, in fact, many of the things that can put a satellite up, can attack the satellite, and so can a lot of other things.

It doesn't have to be simply a dedicated ASAT. We are continuing to struggle with this problem because we are interested in having the freedom to use space.

Open space is in a sense a regime that already exists. We are anxious to maintain that.

At the same time we continue to look and see if there aren't some measures we can propose. That isn't to say there is no arms control that relates to space.

We have the Outerspace Treaty, we have the ABM Treaty, we have the START Treaty which limits at least those ballistic missiles that go through space.

So, but on specific ASAT proposals, we haven't come up with anything that we felt can do the job. We are continuing that effort.

Mr. CARR. Well, I encourage you to do so. This is one of the areas where we are missing great opportunity.

I have one more question on START. I will submit it for the record.

Mr. ROGERS. No further questions.

Mr. CARR. Thank you for being here Mr. Lehman.

Mr. LEHMAN. Mr. Chairman, I appreciate it.

[The following questions were submitted to be answered for the record:]

Questions Submitted by Congressman Carr

Transfer of Administrative Support

QUESTION: The FY-1991 budget request reflects the transfer of $9,175,000 from ACDA to the State Department to provide administative support for arms control delegations in Geneva. What is the rationale behind this proposal?

ANSWER: This functional transfer of overseas administrative support from ACDA to State serves to bring the administrative operations in Geneva in line with management practices worldwide and eliminate duplication of effort. This transfer would enable ACDA to devote its authorized resources exclusively to the substance of arms control and non-proliferation without the distraction and fiscal drain of purely administative tasks already performed for other delegations worldwide by the Department of State.

QUESTION: Would this change affect other administrative support to Geneva delegations provided by ACDA Washington?

ANSWER: No, this change is not meant to impact upon any other support that ACDA would provide to the Geneva delegations.

QUESTION: How would this transfer affect the role of the ACDA security office? For example, would ACDA continue to be responsible for transmitting classified material and passing clearances to the Geneva delegations?

ANSWER: As a result of this transfer the Department of State's Diplomatic Security Office would assume the responsibility for transmitting classified material and passing clearances to the Geneva delegations. ACDA's security office would, however, continue to serve the ACDA members to the delegations and provide them with appropriate security support as needed.

Currency Fluctuations

QUESTION: What has been the impact of currency fluctuations on the operations of the agency in FY-1990?

ANSWER: In the past year the exchange rate has been relatively stable. Therfore, ACDA has not needed to request additional funding for this purpose. However, if as a result of political changes in Eastern Europe or the impact of the EC on the European economy or for some other reason the exchange rates fluctuates dramatically, then ACDA, with its relatively fixed budget, will need to request additional funding to accommodate any significant change.

Request for Additional Personnel

QUESTION: You are requesting an increase of $914,000 for ten additional positions for the agency. Are these additional resources needed as a result of increased workload in your current responsibilities, or as a result of additional arms control negotiations or initiatives? How will these additional positions be allocated? I see that one of those positions would be for an administrative assistant. Since you are turning over a significant part of your administrative responsibilities to the State Department, why is an additional administrative position needed?

ANSWER: The request for additional personnel reflects ACDA's current personnel resource requirements. In recent months the Administration has indicated that both conventional and chemical weapons negotiations will be a high priority, as well as the continual need for effective verification. In order to meet these requirements, ACDA is requesting the following:

-- 3 positions in the Multileral Affairs Bureau
-- 2 positions in the Verification & Intelligence Bureau
-- 1 position in the Strategic Programs Bureau
-- 1 position in the Nuclear & Weapons Control Bureau

Furthermore, in the past few years, both the number and size of delegations has increased. Though ACDA has had modest increases in personnel these resources have typically been utilized to meet delegation requirements. Support staff has remained relatively constant. Therefore, the remainder of this request is to provide increased administrative and legal support to the Agency

-- 2 positions in the Office of the General Counsel
and,
-- 1 position in the Office of Administration, which will be used to provide for the administrative and logistical support demands of the Agency as well as responding to the increased reporting and compliance requirements of the Executive and Legislative Branches.

External Research

QUESTION: The justification indicate that the external research budget is currently allocated by bureau. The justification also state that "as we approach FY-1991 we will be better able to identify these requirements". Why should this Committee approve your request for such a large increase if you can't identify your requirements more precisely at this time?

ANSWER: ACDA has allocated more than half of this research request for use in verification, primarily on chemical weapons. The balance on these funds will be utilized in support of the numerous arms control delegations currently negotiating with the Soviets, such as START, CFE, Defense & Space, and other nuclear safeguards and non-proliferation activities.

START

QUETION: I support START for the same reason I supported SALT II. We're better off with it than without it. But I have to admit that if I look for concrete benefit in it, I come up pretty thin.

START mandates no direct improvement in crisis stability. The one truly stabilizing proposition you had, on short time of flight missiles, seems to be stagnating in the Kremlin. START will leave each side with more strategic warheads than when President Reagan took office. And if we have to take B-2 and two new ICBMs in the package, it's hard to see how it will save us money.

I hope your plans for START II are a lot more substantive, particularly as affects crisis stability. The primary threats to crisis stability are missile accuracy, surprise, reliability, and warhead-to-silo ratio. Obviously I'm not asking you to outline START II here in public, but just speculate: What could we do in START II that would directly promote crisis stability by limiting or banning first-strike capability?

ANSWER: I disagree with the premise of the question. In my view a START agreement, coupled with the requisite modernization of U.S. strategic forces, would make a major contribution to enhancing crisis stability. For example, the sharp reduction in the number of prompt, hard-target kill capable warheads on Soviet ICBMs will greatly enhance strategic stability.

Turning to START II, I cannot as yet speculate on what such an agreement would look like. The initial START agreement will be very complex. It may well be that we will need the experience with implementing a first START agreement before we plunge into a second one. We are still learning relevant lessons for START from implementing the INF Treaty. This said, preliminary discussions have begun in Geneva on this subject and we are listening to Soviet ideas regarding follow-on talks. In the meantime, both sides are focused on resolving the remaining START I issues by the June summit.

Special Verification Commission
(March 13, 1990)

QUESTION: The Special Verification Commission (SVC) was established under the INF Treaty. How many and what types of issues have been considered by the SVC?

ANSWER: The SVC has addressed numerous INF implementation issues since the Treaty entered into force on June 1, 1988. These have resulted in agreement on the following implementing documents:

--A Memorandum of Understanding on the procedures for operation of the SVC itself, signed on December 20, 1988.

--An Agreed Statement on U.S. inspection procedures at the continuous monitoring inspection site at Votkinsk, USSR, signed on December 8, 1988.

--An Agreed Statement on Soviet inspection procedures at the continuous monitoring inspection site at Magna, Utah, signed on June 9, 1989.

--The Memorandum of Agreement on the implementation of the Treaty's verification procedures, signed on December 21, 1989.

QUESTION: Which issues were raised by the United States and which issues were raised by the Soviet Union?

ANSWER: These documents cover a wide range of implementing procedures raised by both sides.

QUESTION: How were these issues resolved, how long did it take to reach resolution, and how can the resolution process be improved?

ANSWER: These issues were resolved through negotiation, and the dates of conclusion of each document are listed above. As agreed in the MOU on SVC operating procedures, the negotiating process remains confidential. However, the MOU also stipulates that documents concluded in the SVC must become unclassified, unless otherwise agreed. All of the documents listed above are unclassified.

--We are satisfied with the resolution process in the SVC. In addition, we have raised numerous issues with the Soviets through other diplomatic channels, particularly when the SVC is not in session.

474 28-901

QUESTION: What pending issues have not yet been addressed or resolved?

ANSWER: As stated above, issues which remain under negotiation are subject to the agreed rules of confidentiality. Senate and House staffs have been provided a classified briefing on these issues, as well as on the negotiating process which produced the four documents signed in the SVC. Such a briefing could be provided to you or your staff, if you wish.

Implementation of Verification Provisions of the INF Treaty

QUESTION: I understand that the Memorandum of Agreement regarding implementation of the verification provisions of the INF Treaty was signed December 21, 1989, about 19 months after the Treaty entered into force. Why did it take so long to reach agreement?

ANSWER: The MOA was negotiated by the SVC over the course of six sessions which lasted a total of approximately seven months. The length of time which it took to finalize the document was due to:

—the unprecedented scope and complexity of the Treaty, in regard to both elimination of military assets and the multi-faceted verification regime, including several types of on-site inspections;

—the time required for both the U.S. and USSR to decide what equipment they wished to use for Treaty verification (other than NTM) and then, as required by the Treaty, to negotiate with the other Party the characteristics of that equipment and its methods of use; and

—the fact that both sides proceeded cautiously, not only to protect their own interests, but also to ensure that the provisions we were spelling out in the MOA were in absolute accordance with the Treaty and also reflected experience gained in implementing the Treaty.

The bottom line is that we took the time to do it right.

RERTR Program

QUESTION: What is the status of the RERTR program and is there any amount in this budget request for funding the program in FY 1991?

ANSWER: The Reduced Enrichment in Research and Test Reactors (RERTR) program was an U.S. initiative to reduce the need for highly enriched uranium in the foreign nuclear programs. It is now funded only under DOE, with $1.2 million appropriated for FY 1990 and $300,000 being requested for FY 1991.

More than 20 countries are participating in the RERTR program. New research reactors using low enriched fuel based on RERTR-developed technology have been built or are under contract in eight of these countries. Existing research reactors have been converted or replacement low enriched uranium fuel ordered in eight countries. Twelve countries are currently planning to convert reactors. The results of the program will make it possible for all but three of the existing foreign research and test reactors requiring additional fuel supply to convert to low enriched uranium fuels.

No follow-on program is planned for the development of the advanced fuels which would be needed to allow conversion of the last three reactors. All of ACDA's follow-on activities working with State and DOE will focus on encouraging individual countries to use RERTR-developed information in the conversion of their reactors.

ACDA SECURITY

Geneva Inspection

QUESTION: What were the results of the inspection of ACDA's security practices in Geneva, and what action have you taken in response to the issues identified in the November, 1989 report?

ANSWER: I asked the Advisor for Internal Affairs and the Assistant Deputy Director for Security to make an informal assessment of the security situation in Geneva.

Delegation TS control officers had reported to the ACDA TS Control officer that there were no TS documents in Geneva. This was determined to have been in error.

The ACDA inspection found two TS documents were in the possession of one delegation and 40 additional TS documents comprising old SALT records in archival safes. All of these documents were subsequently brought under proper control.

The ACDA inspection determined that the 150 TS documents cited by GAO as "missing" had not been appropriately logged-in/accounted for at Geneva.

Thereafter ACDA requested that the Department of State, Bureau of Diplomatic Security conduct an investigation to determine what has happened to the documents. We are awaiting the results of their investigation.

The aforementioned GAO report on Geneva indicated combinations had not been changed on transfer of delegation members.

During the ACDA inspection it was determined all combinations were changed by the Regional Security office in September 1989 and will be changed on transfer of delegation members as required by the uniform security regulations (5 FAM 900).

It was determined that overcrowding was having an adverse impact on security.

We have been working with the Department of State to alleviate this problem through scheduling changes and shifting locations of some functions.

Top Secret Document Inventory

QUESTION:	What were the results of the Top Secret inventory conducted in your headquarters in Washington in 1989?
ANSWER:	As of October 31, 1989 there were 1119 Top Secret holdings in ACDA. During this inventory, each of these was viewed by TS Control personnel in the office holding the document, in the files being reviewed for downgrading and in the Top Secret vault. The signed receipts were matched to documents. Signed receipts are on file for each of these documents.
QUESTION:	Was a similar inventory done at the Geneva office, and if so, what were the results?
ANSWER:	The ACDA TS control officer in Geneva requested that each of the Top Secret Liaison Officers (TSLOs) on the delegations advise him of any TS material on hand. Each reported that he did not possess any TS material. During the assessment of security conducted in Geneva from October 31 to November 2, 1989 it was determined that there were TS documents located in delegation safes that had not been brought under proper control. Upon inventory of five security containers containing historical SALT material, forty TS documents were located. Two additional documents were listed in a inventory by another delegation, although a copy of that inventory had not been provided to the ACDA TS Control Officer. All of these documents have been subsequently brought under appropriate inventory control.

QUESTION: Since the GAO completed its work in April 1988, has ACDA identified additional Top Secret or other sensitive documents that were not on its records or improperly stored in Washington or Geneva.

ANSWER: Forty-two Top Secret documents that had been stored in historical materials located in a secure area away from delegation spaces were discovered by an ACDA Team from Washington in November, 1989. They have been brought under appropriate inventory control.

A DIA Team of SCI Document Control Experts was brought into ACDA from October 1988 to December 1988 to assist ACDA in bringing its SCIF into complete compliance with DCI directives. During this period additional documents were identified within the SCIF that had not been placed on the SCIF inventory and they were brought under control.

QUESTION: How will your new computer system improve control of Top Secret documents?

ANSWER: The computer system tracks the documents from their arrival in ACDA through their life span to destruction or being archived. The documents are bar coded, receipted and their location tracked by the system. The system ensures accountability. Unannounced visual inspections, as well as the inventory process, ensures compliance with document control requirements.

Accounting for Safes in Washington

QUESTION: The GAO reported that ACDA could not locate 62 safes that were listed in its records. What have you done to locate these missing safes?

ANSWER: The Administrative Office of ACDA has conducted a number of inventories of secure containers. At present ACDA is undergoing the annual change of combinations on all security containers. As the combinations are being changed the old property numbers, new property numbers and location are being cross correlated. It should be noted that the GAO "list" of 62 missing "safes" contained ID numbers of padlocks, misidentified as security containers. We are working with GAO to resolve the confusion.

Under the new property inventory procedures an automated tracking system is being computerized. Security containers are bar coded. The Administrative Office is now required to notify the Security Office of any movement of security containers. Additionally, the Office of Security will cross check the data developed as to number and location of security containers with the Administrative Office's property inventory records to ensure accuracy.

QUESTION: What have you done to improve procedures for tracking safes and maintaining accurate records concerning the location of containers approved for storage of classified information.

ANSWER: See response to question number 1.

MONDAY, MARCH 5, 1990.

MARITIME ADMINISTRATION

WITNESSES

CAPTAIN WARREN G. LEBACK, MARITIME ADMINISTRATOR

WILLIAM CREELMAN, DEPUTY MARITIME ADMINISTRATOR

EARNEST HAWKINS, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION

MASON G. NOTTINGHAM, DIRECTOR, OFFICE OF BUDGET

ROBERT J. PATTON, JR., ACTING CHIEF COUNSEL

BRUCE J. CARLTON, DIRECTOR, OFFICE OF MARITIME LABOR AND TRAINING

MICHAEL DELPERCIO, JR., DIRECTOR, OFFICE OF SHIP OPERATIONS

SANDRA T. FARROW, DIRECTOR OFFICE OF EXTERNAL AFFAIRS

JONATHAN D. KASKIN, DIRECTOR, STRATEGIC SEALIFT DIVISION, OFFICE OF CHIEF OF NAVAL OPERATIONS

Mr. CARR. We will reconvene.

The second item the Committee will consider this afternoon is the fiscal year 1991 budget request for the Maritime Administration in the Department of Transportation.

The request is comprised of three items. We have $261.2 million for Operating-Differential Subsidies with a liquidation of contract authority and $71.678 million for Operations and Training, and a $225 million item for the Ready Reserve Force.

We will insert the budget justifications submitted in support of the request into the record at this point.

[The justifications follow:]

U.S. Department of
Transportation

BUDGET
ESTIMATES

FISCAL YEAR 1991

MARITIME
ADMINISTRATION

SUBMISSION TO CONGRESS

DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION
Budget Estimates, Fiscal Year 1991
Congressional Submission

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Appropriation: Ready Reserve Force

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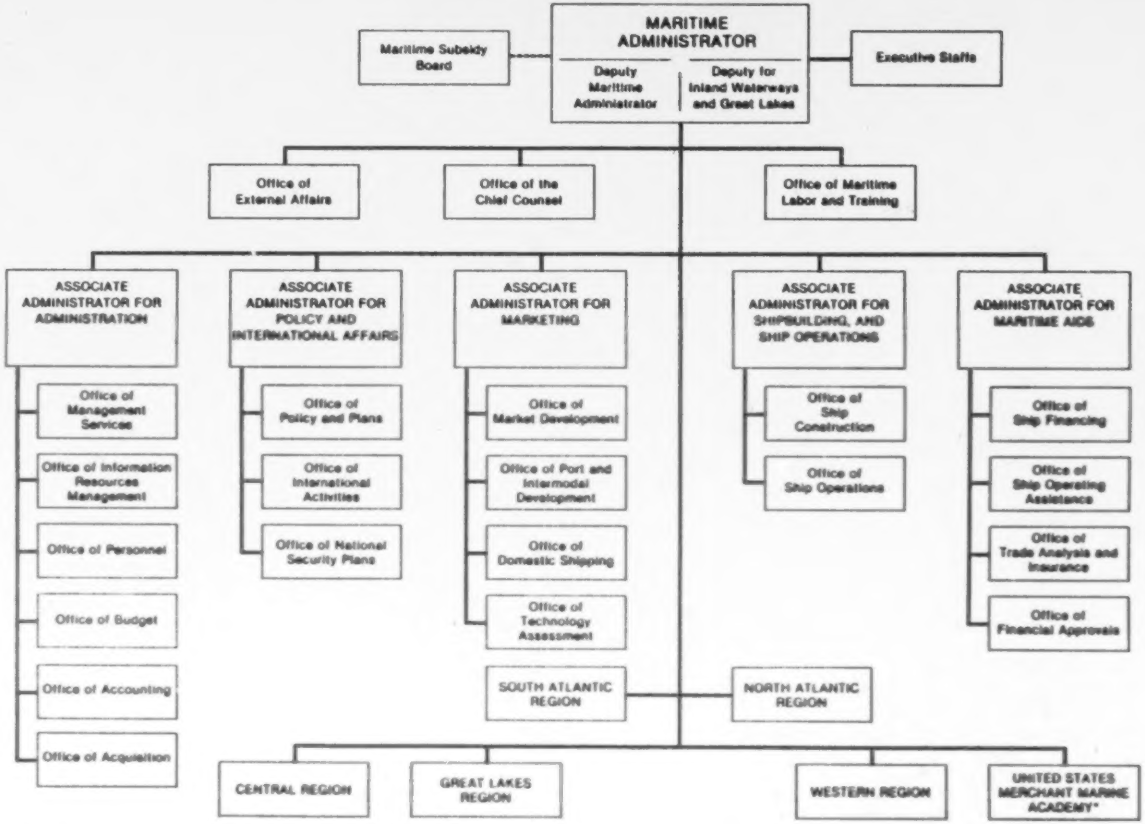
MARITIME ADMINISTRATION


MARITIME ADMINISTRATOR
Deputy Maritime Administrator
Deputy for Inland Waterways and Great Lakes
Maritime Subsidy Board
Executive Staffs
Office of External Affairs
Office of the Chief Counsel
Office of Maritime Labor and Training
ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION
Office of Management Services
Office of Information Resources Management
Office of Personnel
Office of Budget
Office of Accounting
Office of Acquisition
ASSOCIATE ADMINISTRATOR FOR POLICY AND INTERNATIONAL AFFAIRS
Office of Policy and Plans
Office of International Activities
Office of National Security Plans
ASSOCIATE ADMINISTRATOR FOR MARKETING
Office of Market Development
Office of Port and Intermodal Development
Office of Domestic Shipping
Office of Technology Assessment
ASSOCIATE ADMINISTRATOR FOR SHIPBUILDING, AND SHIP OPERATIONS
Office of Ship Construction
Office of Ship Operations
ASSOCIATE ADMINISTRATOR FOR MARITIME AIDS
Office of Ship Financing
Office of Ship Operating Assistance
Office of Trade Analysis and Insurance
Office of Financial Approvals
SOUTH ATLANTIC REGION
NORTH ATLANTIC REGION
CENTRAL REGION
GREAT LAKES REGION
WESTERN REGION
UNITED STATES MERCHANT MARINE ACADEMY*

* Kings Point, N.Y.

General Statement

The Maritime Administration is responsible for programs to promote a strong U.S. Merchant Marine for the waterborne carriage of U.S. foreign and domestic commerce and for national defense purposes authorized by the Merchant Marine Act, 1936, as amended, and other legislation. Emphasis is placed on increasing the competitiveness and productivity of the U.S. maritime industries as well as ensuring adequate seafaring manpower for peacetime and national emergencies.

The following is a comparison of the 1990 appropriations and the 1991 budget estimates for the programs of the Maritime Administration:

Appropriations	1990 Appropriation Currently Available		1991 Estimate		Inc. (+) or Dec. (-)		Perm. Emp. 12/31
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	
Operating-Differential Subsidies							
Appropriation to liquidate contract authority	...	($225,870)	...	($261,200)	...	(+$35,330)	
Ocean Freight Differential (permanent, indefinite appropriation)	...	(48,230)	...	(45,843)	...	(-2,387)	
Operations and Training	645	65,050 A/	645	71,687	...	+6,637	630
Ready Reserve Force	...	89,000	...	225,000	...	+136,000	
Total, Appropriations	645	154,050	645	296,687	...	142,637	630

NOTE A: Does not include transfer of $2,250,000 of unobligated balances from Ship Construction Subsidy.

Operating-Differential Subsidies

Operating-Differential Subsidies (ODS) are the primary means of Federal financial support for the competitive operation of the U.S.-flag merchant fleet engaged in the foreign commerce of the United States. This program assists in the development and preservation of a modern, efficient and competitive U.S.-flag merchant fleet to serve both the commercial and national security needs of the U.S. by providing operating subsidies to American ship operators, which offset differences between U.S. and foreign operating costs. The 1991 appropriation to liquidate contract authority is $261,200,000, an increase of $35,330,000 over the 1990 appropriation.

Ocean Freight Differential

No appropriation law is required for 1991 since the 1988 Continuing Resolution (P.L. 100-202) enacted permanent, indefinite appropriations for 1988 and future years. The Food Security Act of 1985 (P.L. 99-198) mandated an increase from 50 percent to 75 percent over a three-year period in the gross tonnage of concessional agricultural cargoes, such as Food for Peace, that must be carried on U.S-flag vessels. The law requires the Department of Transportation to reimburse the Department of Agriculture for added ocean freight differential costs. P.L. 99-198 established the program year as beginning April 1 and ending March 30 in the following year. The maximum percentage was reached with the program year ending March 30, 1989. The Act requires the Maritime Administration to borrow such sums as are necessary to make payments to USDA for the added costs of the program; however, the permanent, indefinite appropriation permits simultaneous repayment with no interest accruing. It is estimated that program accruals for fiscal year 1991 will be $45,843,000.

Operations and Training

This appropriation finances costs incurred by Headquarters and region staffs in the administration and direction of the various programs established to fulfill Maritime Administration responsibilities as well as the total cost of officer training at the U.S. Merchant Marine Academy and Federal financial support to State marine schools. The 1991 request of $71,687,000 is $6,637,000 above the 1990 Appropriation. The new increase reflects the following changes:

(Dollar amounts in thousands)

	Changes	
	Perm. Pos.	Amount
(a) Adjustments to base and built-in changes:		
Full year cost of the 1990 pay raise in 1991	...	+670
1991 pay raise with 50% absorption	...	+621
Other increases	...	+3,496
Decrease	...	-150
Subtotal, adjustments to base and built-in changes	...	+4,637
(b) Program change:		
U.S. Merchant Marine Academy - replacement of radar simulator	...	+2,000
Total change	...	+6,637

No funds are included for consulting services as delineated in 31 U.S.C. 1114.

Ready Reserve Force

This appropriation provides funding for the Ready Reserve Force (RRF), which is comprised of Government-owned, U.S.-flag merchant ships laid up in the National Defense Reserve Fleet (NDRF). The RRF is maintained in an advanced state of readiness for reactivation to meet surge shipping requirements during a national emergency.

The RRF program is an important element of our national defense and the functional coding of the program has been changed from Transportation, Water (403) to Defense-Related activities (054). The RRF continues to be a key part of the Administration's overall strategy of forward defense and rapid reinforcement. It supplies about one-third of all U.S. strategic sealift capacity and over half of our capability to move specialized military equipment by sea.

RRF ship requirements are determined in accordance with DoD/Navy planning guidance which takes into account MARAD's projected merchant ship availability measured against military sealift requirements. The Navy's present RRF requirements call for an expansion from 100 ships in 1990, to 105 ships in 1991 and 142 by 1994. $225,000,000 is requested in 1991 which is an increase of $136,000,000. The 1991 request includes $49,400,000 for additional ships, $171,600,000 for maintenance and operations of the force, and $4,000,000 for facilities.

Federal Ship Financing Fund

The Federal Ship Financing Fund is used to underwrite the Government guaranteed loans authorized by Title XI of the Merchant Marine Act, 1936, as amended. No new commitments for loan guarantees are projected.

Authorizing legislation

Authorizing legislation will be proposed pursuant to Section 209 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1119) for the following accounts: Operating-differential subsidy, Operations and Training, and Ready Reserve Force.

Maritime Administration
Summary Statement
Operating-Differential Subsidy

Operating-differential subsidies (ODS) help to maintain a U.S.-flag merchant fleet to serve both the commercial and national security needs of the United States by providing operating subsidies to U.S.-flag ship operators to offset differences between U.S. and foreign operating costs.

46 App. U.S.C. 1171 - 1185 provides that the Maritime Administration may enter into long-term contracts with United States citizens operating vessels in foreign commerce in essential services, and provides for payment of the differential between certain of their operating costs and those of foreign competitors in order to permit operation on a comparable cost basis. Appropriations are provided to liquidate contract authority [46 App. U.S.C. 1119(b)(3)].

Subsidy is provided for wages in all cases, and maintenance and repair and insurance costs in some cases. Subsidizable U.S. wage costs are limited through use of a special, non-maritime, U.S. wage index developed by the Bureau of Labor Statistics. Wage costs are also partially controlled through the limitation of manning levels for newly subsidized vessels. Payments for maintenance and repair and insurance are based upon the difference between the fair and reasonable cost of these items and the cost of the same items if the vessel were operated under the registry of the flag of a substantial foreign competitor.

An appropriation of $261,200,000 is required for 1991 to liquidate contract authority, an increase of $35,330,000 over the 1990 Congressional estimate. The increase consists of (a) $15,650,000 of contractual authority estimated for 1990 for which appropriations are insufficient and (b) $4,030,000 for the increased level and cost of operations estimated for 1991.

Appropriation language and code citations:

"For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $261,200,000, to remain available until expended."

46 App. U.S.C. 1119(b)
46 App. U.S.C. 1171 - 1185

46 App. U.S.C. 1119(b) ". . . there are to be authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for . . . , (4) payment of obligations incurred for operating-differential subsidy; . . . only such sums as the Congress may specifically authorize by law: . . . ."

46 App. U.S.C. 1171 - 1185 generally provides that the Maritime Administration may enter into contracts with United States citizens operating vessels in foreign commerce in essential services, and provides for payment of the differential between certain of their operating costs and those of foreign competitors in order to permit competition on a comparable cost basis.

Summary of Requirements
(Dollar amounts in thousands)

Appropriation: Operating-differential Subsidies

Summary of adjustments to base and built-in changes:	Perm. Pos.	Amount
Appropriation currently available, 1990	...	$225,870
Anticipated unfunded contract authority	...	+15,650
Anticipated 1990 appropriation required	...	241,520

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Appropriation required	...	$220,409	...	$241,520	...	$241,520	...	$245,550	...	+$4,030
Unfunded 1990 contract authority			...	-15,650			...	15,650		+31,300
Appropriation to liquidate contract authority			...	225,870			...	261,200		+35,330

Ships and Contract Authority by Operator
(Dollar amounts in thousands)

	1989 Estimate			1990 Estimate			1991 Estimate			Inc. (+) or Dec. (-) 1990 to 1991		
	Ships Under Subsidy (EOY)	Ship Years	Accrual	Ships Under Subsidy (EOY)	Ship Years	Accrual	Ships Under Subsidy (EOY)	Ship Years	Accrual	Ships Under Subsidy (EOY)	Ship Years	Accrual
Liners:												
American President Lines, Ltd......	23	22.8	64,050	23	21.8	66,570	23	21.8	68,560	0	0.0	1,990
Farrell Lines Inc..................	7	4.0	14,260	7	4.9	15,460	7	5.2	16,770	0	0.3	1,310
Lykes Bros. Steamship Co. Inc......	27	25.1	92,630	27	25.6	96,640	27	25.6	95,390	0	0.0	(1,250)
Waterman Steamship Corp............	4	3.9	16,580	4	3.9	17,660	4	3.9	18,190	0	0.0	530
Subtotal Liners..................	61	55.8	187,520	61	56.2	196,330	61	56.5	198,910	0	0.3	2,580
Bulk:												
American Maritime..................	2	1.3	2,160	2	0.5	1,170	3	0.9	1,790	1	0.4	620
Aquarius Marine Co.................	1	1.0	3,770	1	0.9	3,410	1	0.9	3,510	0	0.0	100
Atlas Marine Co....................	1	1.0	3,620	1	1.0	3,600	1	1.0	3,710	0	0.0	110
Brookville.........................	2	0.0	0	6	1.5	2,930	6	1.5	3,020	0	0.0	90
Chestnut Shipping Co...............	2	1.1	2,929	5	2.0	5,400	5	2.0	2,030	0	0.0	(3,370)
Equity.............................	5	0.0	0	5	1.3	3,120	5	1.3	3,210	0	0.0	90
Margate Shipping Co................	3	3.0	8,030	6	3.0	8,450	6	3.0	8,700	0	0.0	250
Moore-Mac Bulk Transport, Inc......	3	2.9	7,930	3	2.8	7,720	3	2.8	7,950	0	0.0	230
Ocean Carriers, Inc................	0	0.0	0	4	2.0	5,350	6	3.9	10,570	2	1.9	5,220
Ocean Chem Transport...............	1	1.0	2,290	1	1.0	2,170	1	1.0	2,230	0	0.0	60
Ocean Chem Carriers................	1	1.0	2,160	1	1.0	2,020	1	1.0	2,080	0	0.0	60
Subtotal Bulk....................	21	12.3	32,889	35	17.0	45,340	38	19.3	48,800	3	2.3	3,460
Less MSC/RRF RED.................		0.0	0		(0.1)	(150)		(0.8)	(2,160)		(0.7)	(2,010)
Less PREF. CARGO RED.............		0.0	0		0.0	0			0		0.0	0
Total Existing Operators.........	82	68.1	220,409	96	73.1	241,520	99	75.0	245,550	3	1.9	4,030
Unfunded Contract Authority......			0			(15,650)			15,650		0.0	31,300
Total Appropriation Requested....	82	68.1	220,409	96	73.1	225,870	99	75.0	261,200	3	1.9	35,330

Appropriation Summary Statement

Appropriation: Ocean Freight Differential

This account provides funds to repay Treasury borrowings needed to reimburse the Commodity Credit Corporation of the Department of Agriculture for the additional ocean freight differential and related costs of increased carriage on U.S.-flag ships of specified export concessional agricultural products mandated by the Food Security Act of 1985 (P.L. 99-198).

Statutory authority for these payments is contained in section 901d, Merchant Marine Act, 1936, as amended by the Food Security Act. This law requires that the Maritime Administration borrow from the Treasury such funds as are necessary to finance this program and subsequently seek appropriations from the Congress to repay any borrowings. In the 1988 Continuing Resolution (P.L. 100-202) a permanent-indefinite appropriation was provided for 1988 and future years. Annual enactment of appropriations is therefore not required.

The Act mandated an increase from 50 percent to 75 percent by FY 1989 in the gross tonnage of specified export concessional agricultural commodities that must be carried in U.S.-flag vessels; established a minimum level of agricultural commodities to be exported; and required the Maritime Administration to reimburse the Department of Agriculture for the ocean freight differential costs for the added incremental tonnage above 50 percent. Ocean freight differential is the difference between the cost of shipping a cargo on a U.S.-flag ship and the same cargo on a foreign-flag ship. The Maritime Administration is also required to reimburse the Department of Agriculture for the amount which their total ocean freight and ocean freight differential costs in any fiscal year exceeds 20 percent of the cost of the commodities shipped plus ocean freight and ocean freight differential costs.

The USDA export concessional agricultural programs are primarily defined in Titles I, II and III of the Agricultural Trade and Assistance Act of 1954 as amended (P.L. 83-480). Titles I and III provide for U.S. Government financing of sales of U.S. agricultural commodities to friendly countries on concessional credit terms. Title II provides for assistance programs directed toward the attainment of humanitarian and development objectives, and development and expansion of agricultural markets in the U.S. and recipient countries. Most of the Title II commodities are donated through voluntary agencies such as CARE and Catholic Relief Service and through intergovernmental organizations such as the World Food Program (WFP). Section 416 of the Agricultural Trade and Assistance Act of 1954 as amended provides surplus agricultural commodities to developing countries for similar purposes to those of the Title II program.

The Food Security Act of 1985 established the program year from April through March of the following year beginning April 1, 1986. The Department of Agriculture is responsible for funding ocean freight differential costs of the first 50 percent of gross tonnage that must move in U.S.-flag ships. The Maritime Administration is responsible for the marginal costs up to the required 75 percent.

Ocean freight differential detailed estimates follow. These estimates are based on USDA expectation of quantity shipped for various commodities as available and requested, and MARAD's evaluation of the types and related costs of ships which would be used. Actual volumes and costs will depend on several uncontrollable factors. It is estimated that in FY 1991, payments of $45,843,000 will be made to Commodity Credit Corporation, $2,387,000 less than the FY 1990 estimate.

Ocean Freight Differential
Costs Payable by MARAD for Increased
Cargo Preference

	Quantity Shipped (000 MT)a/	Ocean Freight Differential Rate	Ocean Freight Differential Amount ($000)
Fiscal Year 1989			
Title I/III.	1,068.0	22.26	23,806
Title II	480.0	22.54	10,819
Section 416.	299.0	30.64	9,151
Total	1,847.0		43,776
Fiscal Year 1990			
Title I/III.	917.9	30.00	27,536
Title II	476.7	30.00	14,300
Section 416.	213.2	30.00	6,395
Total	1,607.8		48,230
Fiscal Year 1991			
Title I/III.	934.7	30.00	28,041
Title II	468.4	30.00	14,052
Section 416.	125.0	30.00	3,750
Total	1,528.1		45,843

a/ This estimate represents the share which MARAD is liable to pay costs; i.e., the last 25% of 75% of total shipments, which USDA must ship on U.S.-flag vessels.

Appropriation language and code citations

1. " Such sums as may be necessary for fiscal year 1991 and thereafter are hereby appropriated to liquidate debt and pay interest due to the Secretary of Treasury, as required by section 901d, Merchant Marine Act, 1936 (46 App. U.S.C. 1241h)."

46 App. U.S.C. 1241h

46 App U.S.C. 1241i

46 App. U.S.C. 1241h "...The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year which result from the application of section 901b....For the purpose of meeting those expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue to the Secretary of Treasury such obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of Transportation with the approval of the Secretary of Treasury....The Secretary of Treasury shall purchase any obligations of the Secretary of Transportation issued under this subsection....Reimbursement of any such costs shall be made with appropriated funds, as provided in this section, rather than through cancellation of notes...."

46 App. U.S.C. 1241i "...There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 901a through 901k..."

Summary of Requirements
(Dollar amounts in thousands)

Appropriation: Ocean Freight Differential

Summary of adjustments to base and built-in changes:	Perm. Pos.	Amount
Estimated appropriation, 1990.	...	$48,230
Adjustments to base and built-in changes	...	...
1990 Base.	...	48,230

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Appropriation	...	$43,776	...	$48,230	...	$48,230	...	$45,843	...	-$2,387

Appropriation Summary Statement

Appropriation: Operations and Training

This appropriation finances costs incurred by headquarters and region staffs in the administration and direction of Maritime Administration programs as well as the total cost of officer training at the U.S. Merchant Marine Academy, Federal financial support to state marine schools, and maintenance of the National Defense Reserve Fleet.

Principal activities within the Operations and training appropriation are described as follows:

Maritime Education and Training:

Merchant marine academy - This activity finances operation of the U.S. Merchant Marine Academy at Kings Point, New York. The Academy provides a four-year undergraduate program which leads to a Bachelor of Science degree and to a merchant marine license as Third Mate or Third Assistant Engineer. Academy attendees are enrolled as midshipmen in the U.S. Naval Reserve and, if eligible, are commissioned upon graduation as ensigns in the Naval Reserve and serve in the reserve for at least six years after graduation thereby forming a pool of merchant officers available for service in a national emergency.

State marine schools - This activity provides assistance for the training of merchant marine officers in State schools through direct payments to the schools for operation and maintenance of maritime academies or colleges; incentive payments for cadets; and by furnishing vessels, including their alteration, maintenance and repair, for use as training ships. Students receiving incentive payments are required to apply for and accept if offered a commission in the Naval reserve or a reserve unit of the armed forces for at least six years after graduation thereby contributing to the pool of merchant marine officers available for service on merchant vessels during a national emergency. Students not receiving student incentive payments incur no Federal service obligation. The 1990 Maritime Administration Authorization Act (P.L. 101-115) amended Title XIII of the Merchant Marine Act, 1936, as amended, to require that as a condition for any school to receive any Federal payment or the use of any Government vessel schools agree in writing to require, as a condition for graduation, that graduates pass Coast Guard licensing examinations. Shared use of training ships is proposed pending completion of a study mandated by P.L. 101-115 and the 60 day waiting period after submission of such study to the Congress to reduce annual costs of ship maintenance and repairs and to significantly reduce costs of replacement of ships in the future.

Additional training - This activity provides for administration of the Merchant Marine Academy and state marine schools programs at the Bureau level, for the conduct of supplementary training courses for licensed and unlicensed merchant marine personnel, and for costs of developing and maintaining current data on the maritime labor force.

National Security Support Capability:

This activity provides for preservation maintenance of ships retained for national emergencies in the National Defense Reserve Fleet, administration of the ship transfer and ship disposal programs, and planning for coordination of U.S. maritime industry activities under emergency conditions.

Operating programs:

Development of waterborne transportation systems - This activity provides for program costs not otherwise funded and administrative costs of programs established to promote the development and construction of cost-competitive U.S. merchant ships, and to aid shipowners in obtaining the private investment capital needed to undertake ship construction programs.

Use of waterborne transportation systems - This activity provides for program costs not otherwise funded and administrative costs of programs whose purpose is to support and improve U.S.-flag ship operations in the foreign and domestic trades of the United States.

General administration - This activity covers executive direction and general administrative functions, including accounting, budget, personnel, management, legal and other associated administrative support functions.

The Operations and Training appropriation requested for 1991 is $71,687,000. This is an increase of $6,637,000 above the 1990 appropriation of $65,050,000. Additional funds are requested to initiate replacement of the radar simulator ($2,000,000) and adjustments to base funding for an on-going facilities renovation and modernization program at the Merchant Marine Academy ($1,850,000), full-year cost of the 1990 pay raise ($670,000) and 50% of the cost of the 1991 pay raise ($621,000), a net increase in the cost of goods and services ($1,646,000) offset by one time funding for the mobilization manpower study (-$150,000).

Justification of Proposed Language Change

1. After the section "Provided, That reimbursement may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated;" add the following: Provided further, That the unexpended balances of the appropriation "Research and Development" shall be transferred to and merged with this appropriation;

It is anticipated that all balances of the Research and Development appropriation will be obligated during 1990. The proposed language will eliminate maintenance of a separate account and associated budget and financial reports while spending out these balances.

Appropriation language and code citations:

1. "For necessary expenses of operations and training activities authorized by law."

5 U.S.C. 5901
5 U.S.C. 5902
46 U.S.C. 1111(d)
46 U.S.C. 1119(b)
46 U.S.C. 1295 b, d
50 U.S.C. App. 1744

5 U.S.C. 5901 ". . . The head of the agency concerned, out of funds made available by the appropriation, shall (1) furnish to each of these employees a uniform at a cost not to exceed $125 a year; or (2) pay to each of these employees an allowance for a uniform not to exceed $125 a year."

5 U.S.C. 5902 ". . . each of the respective maximum uniform allowances in effect on April 1, 1966, for the respective categories of employees to whom uniform allowances are paid under section 5901 of this title are increased, ..."

46 U.S.C. 1111(d) ". . . the Secretary of Transportation may make such expenditures as are necessary in the performance of their functions from funds made available to them by this chapter . . . ."

46 U.S.C. 1119(b) ". . . there are authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for . . . (6) reserve fleet expenses; (7) maritime training at the Merchant Marine Academy at Kings Point, New York; (8) financial assistance to State maritime academies under section 1304 of this Act; . . . (10) expenses necessary for additional training provided under section 1305 of this Act; (11) expenses necessary to carry out Title XIII of this Act; and (12) other operations and training expenses . . .; only such sums as the Congress may specifically authorize by law: . . . ."

46 U.S.C. 1295b "The Secretary shall maintain the Academy for providing instruction to individuals to prepare them for service in the merchant marine of the United States".

46 U.S.C. 1295d "The Secretary may provide additional training on maritime subjects, as the Secretary deems necessary, to supplement other training opportunities. . . ."

50 U.S.C. App. 1744 "The Secretary of Transportation shall place in a national defense reserve (1) such vessels owned by the Department of Transportation as, after consultation with the Secretary of the Army and the Secretary of the Navy, he deems should be retained for the

national defense . . . all vessels placed in such reserve shall be preserved and maintained by the Secretary of Transportation for the purpose of national defense."

Summary of Requirements
(Dollar amounts in thousands)

Appropriation: Operations and Training

Page No.	Summary of adjustments to base and built-in changes:	Perm. Pos.	Amount	Perm. Pos.	Amount
	Appropriation currently available, 1990			645	$65,050
MA-20	Adjustments to base and built-in changes:				
	Adjustment for full year cost of 1990 pay increase and related costs	...	909		
	Adjustment for cost of 1991 pay increase and related costs	...	621		
	Increases	...	3,257		
	Decreases	...	-150		
	Subtotal, adjustments to base and built-in changes			...	4,637
	1991 base			645	69,687

Page No.		1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc.(+) or Dec.(-) Over 1991 Base	
	Comparison by: activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
MA-22	Maritime Education and Training:										
	Merchant Marine Academy	195 (206)	$20,290 (20,611)	195 (214)	$21,157 (21,445)	195 (214)	$23,205 (23,205)	195 (214)	$25,205 (25,205)	... ...	+$2,000
	State Marine Schools	14 ...	8,000 (26,062)	14 ...	8,670 (9,900)	14 (14)	8,872 (8,872)	14 (14)	8,872 (8,872)	... ...	...
	Additional Training	21 (22)	1,172 (1,499)	21 (20)	1,568 (1,568)	21 (20)	1,613 (1,613)	21 (20)	1,613 (1,613)	... ...	...

	Comparison by activities:	1989 Actual Perm. Pos.	1989 Actual Amount	1990 Currently Available Perm. Pos.	1990 Currently Available Amount	1991 Base Perm. Pos.	1991 Base Amount	1991 Estimate Perm. Pos.	1991 Estimate Amount	Inc.(+) or Dec.(-) Over 1991 Base Perm. Pos.	Inc.(+) or Dec.(-) Over 1991 Base Amount
MA-26	National Security Support Capability.	138 (140)	7,700 (7,497)	121 (123)	7,786 (8,259)	121 (123)	7,902 (7,902)	121 (123)	7,902 (7,902)	... ...	...
MA-28	Operating Programs: Development of waterborne transportation systems..........	15 (14)	914 (979)	13 (13)	874 (874)	13 (13)	904 (904)	13 (13)	904 (904)	... ...	...
	Use of Waterborne Transportation Systems............	126 (126)	7,707 (8,922)	134 (127)	8,647 (8,923)	134 (129)	8,990 (8,990)	134 (129)	8,990 (8,990)	... ...	...
	General Administration.....	156 (209)	20,467 (22,069)	147 (199)	18,598 (19,540)	147 (185)	18,201 (18,201)	147 (185)	18,201 (18,201)	... ...	...
	Total requirements...	665 (717)	66,250 (87,639)	645 (696)	67,300 (70,509)	645 (698)	69,687 (69,687)	645 (698)	71,687 (71,687)	...	+2,000
	Transfer from "Ship Construction"				-2,250						
	1990 Appropriation				65,050						

Note: Position figures in parentheses represent workyears of all direct funded positions; dollar amounts in parentheses represent obligations.

Justification of Adjustments to Base and Built-in Changes

(Dollar amounts in thousands)

	Perm. Pos.	Amount
Adjustment for full year cost of 1990 pay increase and related costs		
Total cost in 1990 of pay increase	...	811
Less amount absorbed	...	-811
Anticipated 1990 pay increase supplemental	...	...
Additional amount in 1991 to provide full-year cost of pay increase	...	1,130
Less amount absorbed	...	-460
Subtotal, adjustment for 1990 pay increase	...	670

An additional $670,000 is required in 1991 to provide for full-year cost of 1990 pay increases. This includes $469,000 for general schedule, $114,000 for the grades established by the Secretary, and $87,000 for wage board.

	Perm. Pos.	Amount
Adjustment for cost of 1991 pay raise with 50% absorption	...	621

An additional $621,000 is required in 1991 to provide for the cost of a 3.5% 1990 pay increase effective January 1, 1991 with a 50% absorption. This includes $484,000 for general schedule, $78,000 for the grades established by the Secretary, and $59,000 for wage board.

	Perm. Pos.	Amount
Other Increases		
Annualization of 1990 increase in positions	...	95
Within grade increases	...	120
Rent, communications and utilities	...	590
Other services - training ship M&R	...	602
Other services - USMMA	...	1,850
Other services - all other	...	239
Subtotal, increases	...	3,496
Annualization of the cost of the 1990 position increase	...	95

Full year costs in 1991 of four additional positions for administration of the Cargo Preference program which were financed for part year in 1990.

Within grade increases 120

$120,000 is requested for within-grade step increases of which $73,000 is associated with classified employees, and $47,000 for USMMA faculty.

Rent, communications and utilities 590

$590,000 is requested for increased costs of utilities of which $93,000 is for the Merchant Marine Academy, and $497,000 for all other Agency programs.

Other services - training ship maintenance and repair 602

$602,000 is requested to adjust for cost increases to maintain the level maintenance and repairs of the State marine school training ships.

Other services - U. S. Merchant Marine Academy 1,850

$1,850,000 is requested to continue facilities renovation and modernization at the level requested in 1990. A multiyear plan for major maintenance and repair will be initiated as a follow-on to projects for which funds were requested in 1990. Initial funds for this ongoing program will be dedicated to urgent projects relating to fire hazard, personnel safety and property protection.

Other services - all other 239

$239,000 is requested to maintain the level of services in the other on-going programs.

Decrease

Mobilization manpower study . . . . -150

Funds were provided in 1990 on a one-time basis for a study of merchant marine mobilization manpower requirements.

Justification of Program and Performance

Activity: Maritime education and training

(Dollar amounts in thousands)

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Merchant Marine Academy Midshipmen costs......	...	$3,870	...	$3,607	...	$3,607	...	$3,607	...	...
	...	(3,890)	...	(3,607)	...	(3,607)	...	(3,607)		
Instructional program...	90	6,830	90	6,997	90	7,233	90	9,233	...	+$2,000
	(110)	(6,492)	(104)	(6,997)	(104)	(7,233)	(104)	(9,233)		
Maintenance, repair and operating requirements..........	39	5,758	39	6,342	39	8,005	39	8,005	...	...
	(27)	(5,769)	(37)	(6,630)	(37)	(8,005)	(37)	(8,005)		
Program direction and administration........	66	3,832	66	4,211	66	4,360	66	4,360	...	...
	(69)	(4,460)	(73)	(4,211)	(73)	(4,360)	(73)	(4,360)		
Subtotal, Merchant Marine Academy........	195	20,290	195	21,157	195	23,205	195	25,205	...	+2,000
	(206)	(20,611)	(214)	(21,445)	(214)	(23,205)	(214)	(25,205)		

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
State marine schools Direct payments.......	...	$600	...	$640	...	$640	...	$640	...	...
	...	(600)	...	(640)	...	(640)	...	(640)		
Student incentive payments..............	...	1,700	...	1,460	...	1,460	...	1,460 A/	...	...
	...	(1,600)	...	(1,560)	...	(1,460)	...	(1,460)		
Training ships A/........	14	5,700	14	6,570	14	6,772	14	6,772	...	...
	...	(23,862)	...	(7,700)	(14)	(6,772)	(14)	(6,772)		
Subtotal, State Marine schools.............	14	8,000	14	8,670	14	8,872	14	8,872	...	...
	...	(26,062)	...	(9,900)	(14)	(8,872)	(14)	(8,872)	...	
Additional training	21	1,172	21	1,568	21	1,613	21	1,613	...	...
	(22)	(1,499)	(20)	(1,568)	(20)	(1,613)	(20)	(1,613)		
Total requirements	230	29,462	230	31,395	230	33,690	230	35,690	...	+2,000
	(228)	(48,172)	(234)	(32,913)	(248)	(33,690)	(248)	(35,690)		

NOTE A: Savings from annual maintenance through ship sharing offsets the costs of the shipkeeping staffs and repositioning the ships between schools. Additional discussion is provided in Program Changes.

Goals and Objectives

Goals: To maintain programs to assure the availability of a trained and efficient officer corps for the U.S. Merchant Marine in numbers sufficient to (1) meet the demand for deck and engineering officers in the foreign and domestic waterborne commerce of the United States, and (2) provide a military auxiliary in time of war or national emergency;

To develop and maintain a trained and efficient U.S.-citizen work force to man U.S.-flag ships, and increase ship operating safety and through training programs; and

To provide assistance to States in the operation and maintenance of maritime academies or colleges for the training of deck and engineering officers in the U.S. Merchant Marine.

Objectives: To conduct training programs that will provide highly trained deck and engineering officers for employment in the U.S.

merchant marine and that meet accreditation standards, and upgrade the facilities at the Merchant Marine Academy to standards comparable with other Federal academies and universities;

Provide program direction and administration of the U.S. Merchant Marine Academy program at the headquarters level; provide diesel and firefighting training opportunities that are not available from other sources; and develop standard maritime industry employment and wage information.

Base Program

Merchant marine academy - The Merchant Marine Academy at Kings Point, New York offers a four-year undergraduate, full scholarship, program which leads to a Bachelor of Science degree and to a merchant marine license as Third Mate or Third Assistant Engineer. In addition, the students are enrolled as midshipmen in the U.S. Navy Reserve and, if eligible, are commissioned upon graduation as ensigns in the U.S. Navy Reserve. The Academy currently graduates approximately 200 new officers annually. The Academy budget request is presented in four programs described below:

The Midshipmen costs program provides funds for uniforms and textbooks; travel expenses for the entering and graduating classes, at-sea training, and for midshipman academic and extracurricular activities; food service and dairy products contracts; medical and dental expenses; purchase of library books; and related expenses.

The Instructional program provides positions and funds for the academic program. Included in this program are the Dean, Registrar, faculty, and their supporting staffs and the library staff; and funds for the purchase of new or replacement equipment and supplies for the academic program.

The Maintenance, repair, and operating requirements program provides positions and funds for maintenance, repair, and operation of the Academy's buildings and grounds; renovation and upgrading older facilities;
the security staff; utilities; and payments to local governments for common support services.

Program direction and administration provides positions and funds for the executive, regimental and administrative staffs and associated administrative costs.

State marine schools - The Merchant Marine Act, 1936, as amended (46 U.S.C. 1295c) states that the Secretary of Transportation (Maritime Administration) shall cooperate with and assist any State maritime academy in providing instruction to individuals to prepare them for service in the merchant marine of the United States. Six States participate in this program: California, Maine, Massachusetts, New York, and Texas whose curriculums are oriented toward unlimited "deep sea" or "ocean going" merchant marine officer licenses; and the Michigan regional academy which has a three year program oriented to the Great Lakes. Assistance is provided the State marine schools by direct annual payments of $100,000 to each State school and not more than $200,000 to the regional academy; incentive payments to cadets not to exceed $1,200 per academic year for four academic years to any one cadet; and by providing schools with suitable vessels for use as training ships including their alteration, maintenance and repair to meet U.S. Coast Guard certification requirements and classification standards of insurability set by the American Bureau of Shipping. The 1991 budget proposes phase in the sharing of two training ships by the five oceangoing academies.

Additional training - The Additional training program funds the personnel services and supporting costs associated with administration of the Merchant Marine Academy and State marine schools programs at the Bureau level, and maintenance of current data on the maritime industry labor force and collective bargaining agreements in the maritime industry. Also funded are program administration and operating costs of regional schools which provide training in shipboard firefighting, and the marine diesel engineering course which is conducted using the facilities of the Merchant Marine Academy.

Program Changes

	1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Merchant Marine academy - Instructional program............	90	$7,233	90	$9,233	...	+$2,000

Funds are requested to initiate replacement of the radar simulation equipment used to provide training of Academy students in the effective use of shipboard radar for navigation and avoidance of collision with ships or structures. The current simulator equipment is over ten years old, is obsolete, and does not reflect conditions on board ships in the present day merchant marine. The training is required by Coast Guard as a condition for licensing of deck officer students. The equipment currently in use is marginally operative and cannot be upgraded or even maintained; thus replacement is necessary. This funding will provide for 13 stand alone units which will meet requirements for practical instruction for classes of 26 students.

State Marine School Program

The Maritime Administration plans to implement sharing of two training ships by the five "deep water" schools based on the Ship-Sharing Implementation Plan dated August 1989. The additional study required by the Maritime Administration's 1990 Authorization Act (P.L. 101-115) will be submitted sixty days prior to implementation of ship sharing in time for the assumed implementation of ship sharing plan during 1991. The study will explore how currently employed training vessels, U.S.-flag commercial vessels, vessels in the Ready Reserve Force (RRF) and other vessels under the control of the U.S. Government could be used to provide training opportunities. The study would give consideration to cost effectiveness, State school operations, legal liability, safety and other considerations.

The Administration continues to examine the effectiveness of the existing Student Incentive Payment (SIP) program for State maritime academies to determine whether the program is the best way to meet the Federal objectives to generate an adequate supply of licensed merchant marine officers to serve on board U.S.-flag merchant vessels in peacetime and in the event of a national emergency.

Activity: National Security Support Capability

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
National defense reserve fleet............	117 (122)	$6,464 (6,792)	95 (98)	$6,683 (7,156)	95 (98)	$6,748 (6,748)	95 (98)	$6,748 (6,748)	...	...
Emergency planning/ operations..............	21 (18)	1,236 (705)	26 (25)	1,103 (1,103)	26 (25)	1,154 (1,154)	26 (25)	1,154 (1,154)	...	...
Total......................	138 (140)	7,700 (7,497)	121 (123)	7,786 (8,259)	121 (123)	7,902 (7,902)	121 (123)	7,902 (7,902)	...	...

Goals and Objectives

Goals: To maintain a national defense reserve fleet with the capability to meet national shipping requirements in times of emergency; ensure continuity and control of maritime operations in times of national emergency; provide for disposal of government-owned ships excess to national defense needs; control the sale or transfer of U.S. citizen-owned maritime assets to foreign ownership; ensure installation of national defense features on newly constructed ships; and ensure seamen and private shipping against loss in time of war.

Objectives: Preserve and maintain Federally owned ships selected in consultation with the Department of Defense for retention in the National Defense Reserve Fleet (NDRF); provide basic support for selected ships designated for Ready Reserve Force readiness; administer the foreign transfer and ship disposal programs; develop and administer a program to ensure continuity and control of maritime operations under emergency conditions, including coordination with foreign allies; maintain the capability to rapidly activate and effectively administer the National Shipping Authority when required; and administer a program that will facilitate construction of merchant ships quickly, efficiently and economically in the event of a national mobilization emergency.

Base Program

The National Defense Reserve Fleet was created by the Merchant Ship Sales Act of 1946 (50 USC App. 1735 et. seq.) to provide a viable inventory of ships preserved in such a manner as to facilitate activation on short notice to meet requirements for additional shipping capacity in times of national emergency. MARAD is also assigned readiness functions under Executive Orders 10480 and 11490 for ocean shipping, ship acquisition, shipping allocation, and ship operations; and for ports and port facilities including port allocation and support activities except for those functions assigned to the Department of Defense and the Coast Guard. The NDRF provides a pool of merchant ships under the complete control of the Federal government available to provide added capacity to the U.S. Merchant Marine in time of military or economic crisis. Within the NDRF, there is a subset of ships upgraded and maintained to be at port within 5-10 days after notification. This subset of ships is known as the Ready Reserve Force (RRF) and is funded in a separate appropriation to the Maritime Administration. The separate appropriation includes incremental costs of acquiring and maintaining ships. NDRF ships are located at three reserve fleet sites on the East, West, and Gulf Coasts, and at locations on each seacoast other than the NDRF sites for 49 RRF ships. This provides maximum access to shipyards when activation is required.

Other activities of this program are: (1) developing, testing and maintaining plans for building, requisitioning and managing U.S.-flag and other U.S.-owned merchant ships in wartime; (2) developing, in coordination with other NATO countries, plans for mobilization and worldwide employment of NATO merchant ships in wartime; (3) developing, in coordination with the Department of Defense, plans for civil shipping support of the military services in wartime and for defense control and protection of shipping; (4) planning for wartime ship repair and shipbuilding to meet civil and defense requirements, including annual surveys of the mobilization capabilities of private U.S. shipyards; (5) developing and maintaining plans for necessary control of port operations and facilities in wartime; (6) determining equipment requirements and planning for production of essential equipment for wartime ship repair and construction; (7) planning for continuity of MARAD operations in the event of attack on the U.S.; (8) planning for and executing plans for response to natural disasters and other nonmilitary contingencies affecting or requiring support of the U.S. maritime industry; and (9) developing and maintaining the U.S. government war risk insurance program for wartime implementation, including the issuance of war risk insurance binders in peacetime.

Activity: Operating programs

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Development of waterborne transportation systems..................	15 (14)	$ 914 (979)	13 (13)	$874 (874)	13 (13)	$904 (904)	13 (13)	$904 (904)	...	...
Use of waterborne transportation systems..................	126 (126)	7,707 (8,922)	134 (127)	8,647 (8,923)	134 (129)	8,990 (8,990)	134 (129)	8,990 (8,990)	...	...
General administration....	156 (209)	20,467 (22,069)	147 (199)	18,598 (19,540)	147 (185)	18,201 (18,201)	147 (185)	18,201 (18,201)	...	...
Total requirements........	297 (349)	29,088 (31,970)	294 (339)	28,119 (29,337)	294 (327)	28,095 (28,095)	294 (327)	28,095 (28,095)	...	...

Goals and Objectives

Goals: To develop effective and cost-competitive U.S.-flag waterborne transportation systems to help meet national maritime objectives, promote the shipbuilding and ship repair industry, and aid shipowners in obtaining the private investment capital needed to undertake ship construction programs;

Develop and administer programs that will improve the efficiency and use of domestic ports and intermodal transportation systems; and

Provide overall Agency administration and policy direction, and centralized administrative support services consistent with policies, procedures and standards set forth in statutes, executive orders, and directives of agencies to which relevant authority has been assigned or delegated within the Executive Branch.

Objectives: To provide for effective administration of Federal technology assessment projects designed to achieve advances in ship design and operations including improved ship construction techniques; provide capability for technical analysis of merchant ship systems design, development, production and operation which should not be performed on a contract basis; promote and facilitate the growth and modernization of the U.S.-flag fleet by construction, reconstruction, and reconditioning of ships using tax deferred funds arising from operation, depreciation and sale of vessels, and from the investment of accumulated fund assets;

Increase U.S.-flag participation in U.S. foreign commerce; reduce operating subsidy; increase operating flexibility for subsidized companies; increase productivity in marine terminal port operations; improve shipping capability in the domestic waterborne trades; and

Provide overall top level Agency management and direction, and formulate long-range Agency objectives, programs, forecasts and industry statistical analyses; provide administration and direction of records, property, reports, space, forms and directives management, and other similarly mandated programs in accordance with policies, procedures and standards of lead agencies and DOT; provide the following centralized services in accordance with policies, procedures, and standards set forth by statutes, Congress, GAO, OMB, Treasury, OPM, GSA, and DOT, as appropriate: accounting, budgeting and fund control, personnel, and ADP services; and provide systematic periodic management audits of significant organizational units.

Base Program

The Development of waterborne transportation systems activity funds programs that attempt to develop more efficient and cost-effective ship designs and ship components and methods of ship construction, facilitate raising capital to build or modernize ships, and assist in providing highly trained and knowledgeable manpower to construct and operate U.S.-flag ships.

This program funds administrative expenses for personnel whose efforts are directed toward improved ship design engineering and ship construction techniques.

This activity also includes program direction and administration of the Capital Construction Fund program. This program permits U.S. shipowners and operators to deposit earnings, depreciation and gains derived from vessel operations in tax deferred funds provided such funds are used to construct new vessels or reconstruct existing vessels. Administration of this program includes providing assistance to prospective applicants, evaluating and processing applications, reviewing ship construction program proposals, approving appropriate deposit levels, and monitoring and enforcing provisions of established construction fund agreements.

The Use of waterborne transportation systems activity funds programs that attempt to improve the competitive position of the U.S.-flag merchant marine. The U.S.-flag merchant marine historically has had considerable difficulty in competing with foreign-flag ships because of its higher operating costs, principally crew wage costs. The operating subsidy program provides financial assistance to offset these cost disadvantages. Through technical studies and the other programs funded by this activity, the Maritime Administration works for greater U.S.-flag participation in the U.S. foreign commerce, reduction of operating subsidy, increased productivity in general cargo and bulk terminal operations, improved shipping capability in the domestic waterborne trades, and increased use of advanced technology in all maritime operations.

Funds appropriated for this activity provide for administration of Operating-Differential Subsidies (ODS) agreements approved by the Maritime Subsidy Board and for administrative costs related to work performed in administering ODS contracts, reviewing operating practices of subsidized carriers, auditing costs eligible for subsidy, calculating subsidy rates, and processing subsidy payments. Additionally, American-flag operators are supplied directly with current market data and analyses of situations which offer opportunities for U.S.-flag ships to increase their participation in the carriage of potentially profitable cargoes.

Also funded are programs for the exercise of general surveillance over cargo preference activities. The Maritime Administration collects and processes current detailed data on government-impelled cargo shipments to monitor government shipper agency compliance with U.S. statutes. The uniform system for collection analysis and distribution of information also provides data for preparation of annual reports required by Congress. Administrative expenses for activities directed towards improved engineering, management, and environmental aspects of ship operations are included. This includes activities to reduce pollution caused by merchant shipping and to assure fair [illegible] equitable insurance rates for the maritime industry. Port development, intermodal transportation, and domestic shipping programs [illegible] also included in this activity.

The General administration activity provides for salaries and related costs of executive staff engaged in policy and program formulation and general management of Maritime Administration programs. Personnel who administer and provide administrative support for the basic substantive programs of the Agency are also covered in this activity as well as support costs which are not readily assignable to specific programs. These include certain personnel costs and costs of such items as utilities, equipment procurement and repair, communications, supplies and contracted support services.

Summary of Requirements by Object Class
(Dollar amounts in thousands)

Appropriation: Operations and Training

Object class		1991 Base			1991 Estimate			Inc. (+) or Dec. (-)		
		Pos.	Workyears	Amount	Pos.	Workyears	Amount	Pos.	Workyears	Amount
11	Personnel compensation:									
11.1	Full-time permanent.......	645	607	$27,181	645	607	$27,181	...	...	...
11.3	Other than full-time permanent...............	118	91	2,246	118	91	2,246	...	...	...
11.5	Other personnel compensation............			1,089			1,089			...
11.8	Special personal services payments................			477			477			...
	Total.................	763	698	30,993	763	698	30,993	...	...	...
Other objects:										
12	Personnel benefits........			6,243			6,243			...
13	Benefits for former personnel...............			70			70			...
21	Travel and transportation of persons.............			1,000			1,000			...
22	Transportation of things..			56			56			
23.1	Rental payments to GSA....			3,317			3,317			...
23.2	Rental payments to others.			92			92			
23.3	Communications, utilities, and miscellaneous charges.................			4,605			4,605			...
24	Printing and reproduction............			323			323			...
25	Other services............			16,443			16,443			...
26	Supplies and materials....			3,242			3,242			...
31	Equipment.................			1,183			3,183			2,000

Other objects (cont.):	1991 Base Pos.	1991 Base Workyears	1991 Base Amount	1991 Estimate Pos.	1991 Estimate Workyears	1991 Estimate Amount	Inc. (+) or Dec. (-) Pos.	Inc. (+) or Dec. (-) Workyears	Inc. (+) or Dec. (-) Amount
32 Lands and structures......			...			...			...
41 Grants, subsidies, and contributions...........			$2,100			$2,100			...
42 Insurance claims and indemnities.............			20			20			...
Total, requirements...			69,687			71,687			2,000

Appropriation Summary Statement

Appropriation: Ready Reserve Force

The Ready Reserve Force (RRF) appropriation finances the cost of creating, maintaining and expanding a surge shipping and resupply capability that would be available on short notice to carry cargo to support the deployment of U.S. armed forces during a contingency. This capability is provided by Government-owned U.S.-flag merchant ships laid up in the National Defense Reserve Fleet (NDRF) that are maintained in an advanced state of readiness.

The RRF program is an important element of our national defense and the functional coding of the program has been changed from Transportation, Water (403) to Defense-Related activities (054). The RRF continues to be a key part of the Administration's overall strategy of forward defense and rapid reinforcement. It supplies about one-third of all U.S. strategic sealift capacity and over half of our capability to move specialized military equipment by sea. The ability to deploy forces and equipment rapidly to reinforce forward-deployed troops becomes even more important in light of the proposed reductions in conventional forces.

MarAd and Navy first established the RRF ship requirements in the mid-70's to meet the national defense requirement for surge shipping. RRF ships had to be reactivated in short time frames of 5, 10, or 20 days, and have the ability to carry heavy and outsize military cargoes (helicopters, tanks, guns, etc.). This was required since the U.S. ship operators began retiring many militarily useful commercial ships that had become uneconomical to operate. The replacement ships coming into the U.S. fleet were typically highly containerized and did not have offload capabilities.

Under current defense planning guidance, vessels must be available to begin loading military cargoes during the very early stages of a conflict. This early requirement cannot be met solely from the active U.S.-flag merchant fleet. Most active ships will not be immediately available since they will be loaded with cargoes and at sea or at remote locations. The Ready Reserve Force (RRF) vessels fill this immediate need for surge shipping capacity. Follow-on (resupply) shipping would be marshalled from the active U.S-flag fleet as that fleet becomes available, from ships entered onto the list of the NATO Planning Board for Ocean Shipping, from the U.S.-owned open registry fleet, and by Other NDRF vessels which would require 30-90 days to activate.

Overall sealift requirements are determined in accordance with DoD/Navy planning guidance which takes into account MarAd data on present and projected merchant ship availability from all sources and measures this against the sealift requirements of the various military services. The strategic sealift plan is configured, with respect to both size and content, according to these broader projections.

The planned 1990 end strength for RRF ships is 100, of which 45 will be outported at locations other than the three NDRF sites. Funding for an additional 5 ships are planned for 1991 which will expand the RRF to 105 vessels. An expansion to 142 ships by 1994 is planned.

The requested growth of the RRF is largely driven by the continued decline of the U.S.-flag fleet. Even with the projected growth in the RRF ships planned through 1994, the overall number of militarily useful U.S. flag vessels available for national defense deployment continues to decline from 487 in 1976 to 410 in 1988 to a projected 376 in 1994. The number and capacities of these vessels are detailed in the table following this summary statement.

The specific activities funded by this appropriation are as follows:

Fleet additions - This activity provides for additional ships or selective replacement of RRF ships by acquiring ships on the open market or by upgrading NDRF ships. Ship acquisitions and upgrades will be made to provide the number of ships and the type of ships required for this program based on planning factors described above. This activity would also be the source of conversion funds for the completion of the auxiliary crane ship program (T-ACS).

Maintenance and operations - This activity provides for maintaining RRF ships in an advanced state of reactivation readiness; costs associated with berthing ships at dispersed locations; ship activations and deactivations; and special programs required to support the RRF.

Facilities - This activity provides for major alterations, maintenance, improvements and expansion of facilities and service craft necessitated by planned expansion of the RRF and accompanying accelerated deterioration of service craft and facilities resulting from the greatly increased activity of RRF operations and dredging requirements to support larger ships.

Summary of Budget Request

As conversion of the last two T-ACS ships has been deferred due to funding constraints, there will be no new T-ACS activity in the 1989-1991 time frame. A 1990 reprogramming request is being prepared confirming the fact that all the 1990 appropriations must be used for the first priority of maintaining the existing RRF fleet so that ships can meet the readiness criteria in an activation. This budget request assumes the reprogrammed 1990 appropriations and has merged the T-ACS program into the related activity of Fleet additions.

$225,000,000 is requested in FY 1991 for the Ready Reserve Force, an increase of $136,000,000 over 1990. This request includes $49,400,000 for Fleet Additions, $171,600,000 for ship Maintenance and Operations, and $4,000,000 for Facilities.

Appropriation language and code citations

1. "For necessary expenses to maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of reactivation readiness and related programs,"

46 U.S.C. 1111(d)
46 U.S.C. 1119(b)
46 U.S.C. 1295d
50 U.S.C. App. 1744

46 App. U.S.C. 1111(d) ". . . the Secretary of Transportation may make such expenditures as are necessary in the performance of their functions from funds made available to them by this chapter . . . ."

46 App. U.S.C. 1119(b) ". . . there are authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for . . . (6) reserve fleet expenses; . . .; only such sums as the Congress may specifically authorize by law: . . . ."

46 App. U.S.C. 1295d "The Secretary may provide additional training on maritime subjects, as the Secretary deems necessary, to supplement other training opportunities. . . ."

50 U.S.C. App. 1744 "The Secretary of Transportation shall place in a national defense reserve (1) such vessels owned by the Department of Transportation as, after consultation with the Secretary of the Army and the Secretary of the Navy, he deems should be retained for the national defense . . . all vessels placed in such reserve shall be preserved and maintained by the Secretary of Transportation for the purpose of national defense. . . ."

Militarily Useful U.S. Oceangoing Fleet Available for National Defense Deployment a/

	1976		1988		1994	
	Number	(000) dwt	Number	(000) dwt	Number	(000) dwt
Active Fleet						
Cargo ships	286	4,799	163	4,119	126	3,682
Tankers	195	6,801	154	6,992	105	5,113
Passenger ships	6	50	2	15	3	21
Total	487	11,650	319	11,126	234	8,816
Ready Reserve Force						
Cargo ships			81	1,346	104	1,704
Tankers			9	195	36	1,059
Passenger ships			1	9	2	18
Total			91	1,550	142	2,781
TOTAL FLEET						
Cargo ships	286	4,799	244	5,465	230	5,386
Tankers	195	6,801	163	7,187	141	6,172
Passenger ships	6	50	3	24	5	39
Total	487	11,650	410	12,676	376	11,597

a/ Excludes tankers which are over 100,000 dwt and dry bulk vessels. Active fleets are as of June 30, 1988. RRF are as of September 30, 1988. Includes both U.S. foreign trade and oceangoing domestic trade.

Summary of Requirements
(Dollar amounts in thousands)

Appropriation: Ready Reserve Force

Page No.	Summary of adjustments to base and built-in changes:	Perm. Pos.	Amount	Perm. Pos.	Amount
	Appropriation currently available, 1990 (1991 base).............................			...	$89,000

Page No.		1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec. (-) Over 1991 Base	
		Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
MA-38	Fleet Additions............	...	$32,400	...	...	...	...	...	$49,400	...	+$49,400
		...	(22,231)	...	(1,000)	...	...	...	(49,400)	...	+(49,400)
MA-42	Maintenance and Operations.	...	75,351	...	85,000	...	85,000	...	171,600	...	+86,600
		...	(73,693)	...	(96,194)	...	(85,000)	...	(171,600)	...	+(86,600)
MA-46	Facilities.................	...	3,000	...	4,000	...	4,000	...	4,000	...	...
		...	(2,633)	...	(4,000)	...	(4,000)	...	(4,000)	...	...
	Total Requirements.........	...	110,751	...	89,000	...	89,000	...	225,000	...	+136,000
		...	(98,557)	...	(101,194)	...	(89,000)	...	(225,000)	...	(+136,000)

NOTE: Dollar amounts in parentheses represent obligations

Justification of Program and Performance
(Dollar Amounts in thousands)

Activity: Fleet Additions

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec (-) Over 1991 Base	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Fleet Additions...............	...	32,400	...	...	...	...	...	$49,400	...	+$49,400
	...	(22,231)	...	(1,000)	...	...	...	(49,400)	...	+(49,400)

Goals and Objectives

Goals: To insure that the required number of ships, of appropriate configuration and capacity, are available in the national defense reserve fleet to meet national shipping requirements in times of emergency.

Objectives: Acquire and upgrade the ships necessary and appropriate for an adequate surge sealift capability as determined by sealift response plans developed in collaboration with Navy and other approved Department of Defense organizations.

Base Program

This activity provides for expansion or selective replacement of Ready Reserve Force (RRF) ships by either acquiring ships on the open market or by upgrading ships already in the National Defense Reserve Fleet depending on the most beneficial alternative. The Government has no control over when ship operating companies choose to dispose of their assets. Typically, the ships are either sold to MarAd or scrapped. In order to meet the mix of ships as specified by DoD planning, MarAd will purchase or upgrade ships deemed valuable to strategic sealift needs on the basis of the best and most economical opportunity during the fiscal year. Ship acquisitions will be made to provide the types and numbers of ships required by DoD/Navy for the RRF program when satisfactory vessels are not available in the NDRF inventory. Acquisitions will be made by competitive procurement on the open market and will generally require that the ship(s) be delivered in a condition that meets classification requirements of the American Bureau of Shipping (ABS) and certification requirements of the U.S. Coast Guard so that these ships can be manned by non-government personnel without further investment.

Ship upgrades provide for upgrading ships already in the National Defense Reserve Fleet (NDRF) thereby avoiding a substantial portion of acquisition costs. Expenses incurred are primarily to meet classification requirements of the American Bureau of Shipping (ABS) and certification requirements of the U.S. Coast Guard so that these ships can be placed in the same condition required of other RRF vessels. Ships laid up in the NDRF only receive minimum preservation maintenance. Typically, no routine maintenance is performed on NDRF ship machinery or systems to keep the ship certificated with Coast Guard and other regulatory agencies such as the FCC or PHS, and in class with ABS.

The actual number of vessels added to the RRF in a given fiscal year will be determined by (1) the current availability of vessels in the NDRF inventory or commercial market, (2) the dollar amount of bids, and (3) evaluations of the relative value of competed vessels as to condition and contribution to the long range objectives of the Government with respect to ship type. Therefore the actual amount expended for acquisitions and for upgrades may vary during budget execution due to the exigencies of the market and DoD/Navy requirements at that time.

The 1990 appropriation does not provide funds for expansion because the first priority of the RRF program is to maintain the existing fleet in order to meet the reactivation readiness requirements. However, work completed based on prior year funding will result in an increase of seven ships during 1990, bringing the RRF fleet total to 100 vessels. These seven ships include four upgraded tankers, the T-ACS ships 9 and 10, and one troopship that serves a dual role as the New York state schoolship and RRF vessel.

Program Changes

	1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Fleet Additions....................................	...	...	...	$49,400	...	+$49,400

The 1991 request results in an increase of $49,400,000. The request is estimated to be sufficient for MarAd to add five RRF ships; three tankers by upgrade and one RO/RO and one tanker by acquisition.

The DoD/Navy has set a goal of reaching 142 vessels by 1994. As the guidance supports increased growth in the RRF sealift capacity and capability, the Fleet additions request will allow for RRF fleet growth with outyear plans targeted to meet the long range fleet strength goal.

The Ready Reserve Force fleet was initiated in 1976, expanded to a total of 29 ships in 1982 and has reached 93 vessels at the end of 1989; MarAd and Navy acquisition costs during this time have amounted to $574 million. Defense guidance indicates a requirement for 49 more vessels to a total of 142 by 1994 as follows:

	Fleet Consist		Acquisition
	1989	1994	1990-1994
Breakbulk................	51	59	8
Roll-on/Roll off.........	17	24	7
Heavylift................	7	9	2
T-ACS....................	8	12	4
Cargo ship Totals...	83	104	21
Tankers..................	9	36	27
Troopship................	1	2	1
Totals..............	93	142	49

The following table shows the planned changes through 1991 in the number of RRF class ships by general location.

Number of Ships in Fleet

	NDRF Sites	Out Ported	Total
1989	47	46	93
Upgrade	4	...	4
Ship move from outport to fleet	2	-2	0
T-ACs 9,10 & Troopship	2	1	3
1990	55	45	100
Upgrades	3	...	3
Acquisitions	2	...	2
1991 Budget	60	45	105

Activity: Maintenance and Operations

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec (-) Over 1991 Base	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Maintenance and Operations.....	...	75,351	...	85,000	...	85,000	...	171,600	...	+86,600
	...	(73,693)	...	(96,194)	...	(85,000)	...	(171,600)	...	+(86,600)

Goals and Objectives

Goals: To preserve and maintain Federally owned RRF ships capable of being on berth within 5-10-20 days of notification and which are capable of sustained operations to meet national shipping requirements; activate ships on a "no-notice" basis within program standards of 5 days (120 hours), 10 days, or 20 days, or on an "advance notice" basis for other purposes; deliver the ships to their prescribed loading berth for operation or conduct sea trials; and upon completion of their operations or sea trial, deactivate and lay them up. Conduct other programs related to the RRF.

Objectives: This activity provides for (1) maintaining RRF ships in an advanced state of readiness, (2) costs associated with berthing ships at dispersed locations, (3) activating ships and delivering them to their prescribed loading berth within assigned program standards; (4) deactivating and laying up the ships after completion of operations; and (5) developing and maintaining a RRF logistic Support System to provide proper acquisition, control and management of RRF shore based and on-board spare parts.

Base Program

The Maintenance and Operations activity involves efforts in three major areas; ship activations, ship maintenance and berthing and special programs. Ship activations provides funds for RRF ship activations and deactivations required to test ship reactivation readiness and to support DoD/Navy exercises of a broader purpose. Costs of ship operations will be funded by the organization requiring the ship activation.

Ships are periodically activated to determine the effectiveness of lay-up maintenance and activation procedures. Activations may be "no-notice" or may be a controlled "advance notice" activation. "No-notice" activations require continuous work on a three shift - 24 hour a day basis to deliver the ship. Additional costs may be incurred because of weekend or holiday pay or unanticipated repairs. Activated ships may subsequently be used for DoD exercises or merely for sea trials. Upon completion of operations or sea trials, the ships are deactivated and returned to lay up status. 53 RRF ships have been activated since 1977 with all but four successfully meeting the time limit set for activation. No RRF test activations are planned in 1990 due to funding limitations, subject to concurrence by the Office of the Chief of Naval Operations. During 1990 activation of RRF ships will be funded by DoD users when RRF ships are engaged as part of a military exercise.

Maintenance and berthing provides for maintenance of RRF ships in the NDRF in an advanced state of readiness so that they can be activated within 5 days, 10 days, or 20 days depending on the assigned status of the ship. The RRF ships are manned and operated through ship manager contracts between the Maritime Administration and individual shipping companies. The ship managers will also be actively involved with ship maintenance in order to insure they are thoroughly familiar with their ships and their current condition. These ships must be maintained so that they meet requirements of regulatory bodies including the Coast Guard, American Bureau of Shipping, Public Health Service, and Federal Communications Commission. These requirements establish the current generally accepted standards for the condition of a merchant ships hull, machinery and systems. This permits manning and operation of these ships by U.S. citizen civilian (non-Government employees) crews. In addition, periodic inspections and maintenance and repairs are conducted by in house and contract personnel to permit these ships to be activated within prescribed time limits.

RRF ships are berthed at outported locations (locations other than the NDRF fleet sites) at or near their planned cargo berths in order to take advantage of the availability of shipyards and ship repair facilities, insure that vessels meet activation requirements, and facilitate loading at the earliest possible time in an emergency. Costs are associated with long-term leases of pier berthing space, utilities, security, and other charges associated with berthing at an outported location. Forty-five ships are outported at the base level and no significant changes in this number are planned at this time. However, subsequent to completion of an on-going DoD sealift requirements study the current outporting assignments may be reassessed.

Special programs provide for activities in support of the RRF including spare parts management, Radio Officer Training, and other specialized RRF training.

Program Changes

	1991 Base		1991 Estimate		Inc. (+) or Dec. (-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Maintenance and Operations..........................	...	$85,000	...	$171,600	...	+$86,600

An increase of $86,600,000 is requested of which $16,000,000 is for increased ship activations; $67,783,000 is for ship maintenance; and, $2,817,000 is for special programs supporting RRF activities. These increases are vital to ensure the reactivation readiness of the RRF fleet to meet the 5, 10, or 20 day criteria set by the Department of Defense. If maintenance funds are not available to meet specific regulatory and sealift readiness requirements, the ships would not be able to meet their readiness criteria in a national emergency. The activation testing is also essential as an evaluation to determine the effectiveness and to identify failures of the maintenance and activation procedures. Finally, acquisition and management of spare parts is an obvious RRF requirement, RRF ships should be equipped to operate for 180 days at a time and many ships are documented as short on spare parts.

An increase of $16,000,000 is requested to resume activations. MarAd and the Navy are in agreement that eight activation tests planned in 1991 are adequate to test ship manager performance, maintenance procedures and sealift readiness. Activations are our most useful tool to test maintenance procedures and maintain discipline over ship readiness. The entire RRF fleet is under the supervision of commercially contracted Ship Managers, and activations help show MarAd if these managers are effectively maintaining the readiness posture of their assigned ships. The majority of the activation funding represents payments to shipyards for their involvement in preparing the ships in short time frames. Multiple ship activations could also test the effectiveness of regional shipyard industrial bases, or the viability of outported locations.

An increase of $67,783,000 is requested for ship maintenance. The funds requested will provide sufficient resources to maintain the increased level of 105 vessels in an advanced state of readiness. Increased funding of maintenance and repair activities will (1) Allow MarAd to meet cyclical maintenance and repair schedules for RRF ships which must be maintained to meet basic regulatory requirements and to ensure sealift readiness. These activities include continuation of a targeted modernization program for selected high priority ships that involve selected use of maintenance crews, ($45,024,000), and (2) Initiate an aggressive hull preservation, painting and deferred maintenance program to prevent further deterioration of steel surfaces, expensive future steel repairs, and long term system degeneration due to continued deferral of maintenance items ($22,759,000). The purpose of the maintenance program is to have selected merchant ships ready within a specified time period for immediate operational use. In order to do this, these ships must be certificated by the Coast Guard, placed in class by the American Bureau of Shipping and meet inspection requirements of other regulatory bodies. This requires a continuous inspection and maintenance program. Regulatory bodies require periodic inspections on a 1-5 year basis before they will certify that a ship meets current standards for operations.

Regulatory driven maintenance, sealift readiness work and fleet expansion will require an additional $45,024,000 in 1991. This increase results from the higher costs of drydockings and higher costs for other USCG and ABS survey requirements such as the quadrennial cargo gear survey and intermediate surveys on tankers. Drydocking of vessels is normally done every 5 years to satisfy ABS/USCG requirements, and 24 RRF ships are scheduled for drydocking in 1991 compared to 21 ships in 1990. The drydocking cost per ship is higher in 1991 since, (1) On average, larger ships are scheduled, (2) Improved hull preservation will be applied to last for 10 years, allowing MarAd to drydock these ships over a 10 year cycle instead of every 5 years. The U.S. Coast Guard has given approval for MarAd to move to a 10 year drydocking schedule, which will generate savings over the long term. This increase additionally covers maintenance and repairs required to continue to address certain class deficiencies as well as for selected use of maintenance crews to ensure the sealift readiness of the RRF vessels so the ships will be able to meet our stated activation readiness requirements. Initial layup and ship manager costs of bringing 5 new vessels into the RRF fleet will generate increased costs. Adherence to the Service Contract Act will also result in higher wage rates in the regions.

An increase of $22,759,000 is requested to undertake a preservation and deferred maintenance program that would, for example, provide the painting and additional preservation work for 40 ships in 1991. The continued deferral of painting and miscellaneous maintenance items for RRF ships has built a longstanding backlog in this area, and an aggressive effort is needed in 1991 to avoid further deterioration resulting in the need for more costly steelwork.

Initiation of spare parts acquisition will require an increase of $2,817,000, inventory validation and control efforts will continue. Analysis of the current vessels indicates that there are serious inventory shortages of spare parts when measured against the 180 day mission requirement for RRF class ships. In FY 1988 the logistics support staff commenced the validation of inventories that would form the nucleus of an acceptable inventory system, and verify the spare parts inventory conducted in prior years. The schedule for the verification of installed mission equipment and the inventory of onboard spare parts calls for completing approximately 20 ships per year through 1993.

Activity: Facilities

	1989 Actual		1990 Currently Available		1991 Base		1991 Estimate		Inc. (+) or Dec (-) Over 1991 Base	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Facilities....................	...	3,000	...	4,000	...	4,000	...	4,000	...	...
	...	(2,633)	...	(4,000)	...	(4,000)	...	(4,000)	...	...

Goals and Objectives

Goals: To provide and maintain adequate NDRF facilities and fleet support craft.

Objectives: To provide and maintain adequate and effective shore facilities.

Base Program

This program provides funding for long term capital improvement projects for the NDRF including major replacements, repairs, alterations and improvements to the reserve fleets' mooring facilities, service craft and shore side support facilities to ensure efficient and effective operations and to permit their continued support of the increased tempo of RRF operations. The facilities program addresses the near term need to adequately provide for priority dredging activities, additional mooring stakes to safely anchor the increasing number of larger ships, and to provide necessary electrical service.

Summary of Requirements by Object Class
(Dollar amounts in thousands)

Appropriation: Ready Reserve Force

Object class	1991 Base Pos.	1991 Base Workyears	1991 Base Amount	1991 Estimate Pos.	1991 Estimate Workyears	1991 Estimate Amount	Inc. (+) or Dec. (-) Pos.	Inc. (+) or Dec. (-) Workyears	Inc. (+) or Dec. (-) Amount
21 Travel and transportation of persons...............			$1,100			$1,100			...
23.3 Communications, utilities and miscellaneous........			7,200			7,200			...
25 Other Services...........			80,200			166,800			+86,600
26 Supplies.................			500			500			...
31 Equipment................			...			49,400			+49,400
Total, Requirements......			89,000			225,000			136,600

Appropriation Summary Statement

Public Enterprise Fund: Federal Ship Financing Fund

The Federal Ship Financing Fund is used to underwrite the guarantees made under the Title XI Loan Guarantee program and to pay the cost of administering that program.

The Federal Ship Financing Fund incurs obligations for all administrative expenses associated with the Title XI program and payment of defaulted loans. These expenses are financed by guarantee fees, sale of assets, other receipts from the public and interest earned on Treasury investments.

No borrowings from Treasury were made in 1989 or are estimated for future years. The net effect of income and expenses to the fund is estimated to result in increases from the $402,000,000 unobligated balance available on September 30, 1989.

No new commitments for loan guarantees are projected.

Appropriation language and code citations:

1. 46 App. U.S.C. 1273(f) provides that: "The aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any one time shall not exceed $12,000,000,000, of which $1,650,000,000 shall be limited to obligations pertaining to commercial demonstration on ocean thermal energy conversion facilities or plantships guaranteed under section 1279C of this title, and of which $850,000,000 shall be limited to obligations pertaining to guarantees of obligations for fishing vessels and fishery facilities made under this title.

Justification of Proposed Language Change

At the end of the Maritime Administration's appropriations bill, add the following administrative provisions:

1. "ADMINISTRATIVE PROVISIONS - MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services or repairs shall be covered into the Treasury as miscellaneous receipts."

These long standing administrative provisions were omitted in the 1990 appropriation act and were not subject of hearings or of controversy and their restoration is requested. These provisions permit the Maritime Administration to make maximum use of the facilities that it owns and permits their use by non-Federal entities when it is in the best interests of the Government.

2. "No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts."

This language was inserted by Congress in the Supplemental Independent Offices Appropriation Act, 1949, and has been continued in substantially the same form in all subsequent appropriation acts through 1989. The House hearings (page 490) on the Supplemental Independent Offices Appropriation Act for 1949 states that the purpose of this language is solely to restrict the construction fund to an annual budget basis and thereby to secure adequate accounting and budgeting control. The construction fund is inactive at this time.

Mr. CARR. Today the Committee is pleased to welcome Maritime Administrator Captain Warren Leback. Since this is your first appearance before the Committee, we will insert your biographical sketch into the record at this point. Then you may proceed with your statement.

[The biography of Captain Leback follows:]

WARREN G. LEBACK

BIOGRAPHY

Captain Leback was appointed by President Bush to serve as Administrator of the Maritime Administration, United States Department of Transportation, in October 1989. In this position, he is responsible for an agency with more than 1,000 employees, charged with developing and maintaining an American merchant marine adequate to meet the Nation's commercial and defense needs.

Captain Leback has broad experience within the maritime industries. As a World War II merchant marine veteran, Captain Leback served as a licensed deck officer and, eventually Master of vessels operated by W.R. Grace Lines. As the General Manager of Marine Operations for Central Gulf Steamship Corporation of New Orleans, Captain Leback was responsible for vessel operations, maintenance and repairs, and vessel conversions and construction.

In his duties as Vice Presidnet of Marine Operations for Sea-Land Service, Inc., of Port Elizabeth, New Jersey, Captain Leback was responsible for the construction and/or conversion of nearly 40 American-flag vessels. As Assistant to the President, Interstate Oil Transport Company of Philadelphia, he supervised the construction of three 265,000 deadweight ton (DWT) tankers and participated in the design and contracting of two 390,000 DWT tankers. As Vice President of El Paso LNG Company and El Paso Marine, he organized the marine operations department.

In 1981, Captain Leback was appointed Deputy Administrator of the Maritime Administration, and served in the Department of Transportation in that capacity until 1985. Captain Leback returned to the private sector, where he worked as Senior Vice President of Puerto Rico Marine Management, and as an industry consultant, until he was appointed Maritime Administrator in 1989.

Captain Leback received his Bachelor of Science degree from the United States Merchant Marine Academy, Kings Point, New York, in 1944. He maintains an active U.S. Coast Guard license as "Master, Steam and Motor Vessels, Any Gross Tons, Oceans."

He is a member of the American Bureau of Shipping, the Marine Society of the City of New York, the Society of Naval Architects and Marine Engineers, the American Society of Naval Engineers, the Nautical Institute, and the National Alumni Association of the U.S. Merchant Marine Academy.

Captain Leback is married, with three children, and resides in Princeton, New Jersey.

GENERAL STATEMENT

Captain LEBACK. Thank you, Mr. Chairman.

I am pleased to appear before you for the first time as Maritime Administrator to discuss the Maritime Administration's 1991 budget.

The Maritime Administration is responsible for the promotion of a strong U.S. merchant marine for carriage of U.S. foreign and domestic commerce and for national defense. To carry out this responsibility we strive to assure: one, an active fleet of U.S.-owned and operated commercial vessels; two, a sufficient supply of trained and efficient personnel to man these ships; three, a reserve fleet of cargo vessels which can be activated during national emergencies; and four, support to other maritime-related activities that further the national interests of the United States.

Our merchant marine has declined to the point where U.S.-flag liner ships carry only about 19.4 percent of the nation's international liner trade.

The Departments of Defense and Transportation are concerned about the declining sealift capability available to meet national security requirements. However, there are no easy solutions to remedy the progressive decline of our merchant fleet during the past 25 years.

This budget will provide for payment of existing long-term contracts for Operating-Differential Subsidies, will maintain the agency's Operations and Training needs, and will provide full support for the Ready Reserve Force (RRF) to meet Department of Defense requirements.

Despite developments in the Warsaw Pact nations, the RRF program still has a high priority, and continues to be a key part of the nation's overall defense strategy of sealift readiness and rapid reinforcement. It supplies about one-third of all U.S. strategic sealift capacity and over half of our capability to move specialized military equipment by sea.

The ability to deploy forces and equipment rapidly to reinforce forward-deployed troops becomes even more important in light of the proposed reductions in conventional forces. Lack of financial support for the readiness and adequacy of the RRF would jeopardize our ability to deploy U.S. forces and unit equipment without allied assistance.

As you know, the RRF program was in competition with other high priority non-defense demands during 1990 and the appropriation was well below the request. The program is now classified in the national defense category, and funding is again requested at the levels commensurate with the need.

In summary, we are requesting for 1991 an appropriation to liquidate contract authority of $261,200,000 for Operating-Differential Subsidies which is an increase of $35,330,000 over 1990; $71,687,000 for Operations and Training, an increase of $6,637,000; and $225,000,000 for the Ready Reserve Force, an increase of $136,000,000.

An appropriation to liquidate ODS contract authority of $261,200,000 is requested which will pay for an estimated subsidy program of 61 liners and 38 bulk ships. The requested increase of $35,330,000 is for two purposes: One, to make up for 1990 costs which were not covered in the President's budget for 1990; and two, a comparable increase of $19,680,000 for the estimated cost of 1991 operations.

An appropriation of $71,687,000 is requested which is an increase of $6,637,000 over the 1990 appropriation. The requested increase consists of $2,250,000 to annualize the amount transferred from Ship Construction unobligated balances in 1990, $2,200,000 for unavoidable cost increases, and $2,000,000 to initiate replacement of the radar simulator at the Merchant Marine Academy.

Mr. Carr. I don't mean to interrupt you. I think if you could just, perhaps, summarize your statement. Normally I wouldn't do that, but my colleague Mr. Rogers is late for a meeting and needs to ask you a couple of questions. If we could get to the——

Captain **Leback**. I have no problem with that. That suits my schedule.

Mr. **Carr**. I don't like to impinge on a witness' prerogative to read a statement if that is what you wish to do, but in deference to Congressman Rogers——

Captain **Leback**. We can submit this.

Mr. **Carr**. Fine.

Without objection your entire statement will be submitted for the record.

[The statement of Captain Leback follows:]

STATEMENT

OF

CAPTAIN WARREN G. LEBACK

MARITIME ADMINISTRATOR

ON

BEHALF OF

THE

MARITIME ADMINISTRATION

DEPARTMENT OF TRANSPORTATION

BEFORE THE

SUBCOMMITTEE ON COMMERCE,
JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES
OF THE COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES

IN SUPPORT OF

FISCAL YEAR 1991 APPROPRIATION

MARCH 5, 1990

DEPARTMENT OF TRANSPORTATION
STATEMENT OF THE MARITIME ADMINISTRATOR
CAPTAIN WARREN G. LEBACK
BEFORE THE SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES OF THE COMMITTEE ON APPROPRIATIONS U.S. HOUSE OF REPRESENTATIVES IN SUPPORT OF FISCAL YEAR 1991 APPROPRIATIONS

Mr. Chairman and members of the subcommittee:

I am pleased to appear before you for the first time as Maritime Administrator to discuss the Maritime Administration's 1991 budget request. The Maritime Administration is responsible for the promotion of a strong U.S. merchant marine for carriage of U.S. foreign and domestic commerce and for national defense purposes. To carry out this responsibility we strive to assure: (1) an active fleet of U.S.-owned and operated commercial vessels; (2) a sufficient supply of trained and efficient personnel to man these ships; (3) a reserve fleet of cargo vessels which can be activated during national emergencies; and, (4) support to other maritime-related activities that further the national interests of the United States.

Overview

Our merchant marine has declined to the point where U.S.-flag liner ships carry only about 19.4 percent of the Nation's international liner trade. The Departments of Defense and Transportation are concerned about the declining sealift capability available to meet national security requirements. However, there are no easy solutions to remedy the progressive decline of our merchant fleet during the past 25 years. This budget will provide for payment of existing long-term contracts for Operating-Differential Subsidies, will maintain the Agency's operations and training needs, and will provide full support for the Ready Reserve Force (RRF) to meet Department of Defense requirements.

Despite developments in the Warsaw Pact nations, the RRF program still has a high priority, and continues to be a key part of the Nation's overall defense strategy of sealift readiness and rapid reinforcement. It supplies about one-third of all U.S. strategic sealift capacity and over half of our capability to move specialized military equipment by sea. The ability to deploy forces and equipment rapidly to reinforce forward-deployed troops becomes even more important in light of the proposed reductions in conventional forces. Lack of financial support for the readiness and adequacy of the RRF would jeopardize our ability to deploy U.S. forces and unit equipment without allied assistance. As you know, the RRF program was in competition with other high priority non-defense demands during 1990 and the appropriation was well below the request. The program is now classified in the national defense category, and funding is again requested at the levels commensurate with the need.

In summary, we are requesting for 1991 an appropriation to liquidate contract authority of $261,200,000 for Operating-Differential Subsidies which is an increase of $35,330,000 over 1990; $71,687,000 for Operations and Training, an increase of $6,637,000; and $225,000,000 for the Ready Reserve Force, an increase of $136,000,000.

Operating-Differential Subsidies (ODS)

An appropriation to liquidate contract authority of $261,200,000 is requested which will pay for an estimated subsidy program of 61 liner and 38 bulk ships. The requested increase of $35,330,000 is for two purposes: (1) to make up for 1990 costs which were not covered in the President's budget for 1990; and (2) a comparable increase of $19,680,000 for the estimated cost of 1991 operations.

Operations and Training (O&T)

An appropriation of $71,687,000 is requested which is an increase of $6,637,000 over the 1990 appropriation. The requested increase consists of $2,250,000 to annualize the amount transferred from Ship Construction unobligated balances in 1990, $2,200,000 for unavoidable cost increases, and $2,000,000 to initiate replacement of the radar simulator at the Merchant Marine Academy which is used for mandatory training of midshipmen in the proper use of shipboard radar.

We will continue to pursue implementation of a plan for sharing of two training ships by the five oceangoing State marine schools. The replacement ship for the New York State Maritime Academy has been delivered to the school. This vessel and the recently renovated PATRIOT STATE would be shared among the five schools. The Maritime Administration's 1990 Authorization Act (P.L. 101-115) requires an additional study of maritime training which will be completed in time for such implementation. Our request does not prejudge any conclusions from this study. No additional funds are required for ship sharing as funds saved from maintaining a reduced number of ships will be used to offset the costs of ship sharing. Considerable savings will result from not replacing the other three ships in future years.

Ready Reserve Force (RRF)

An appropriation of $225,000,000 is requested for this account, which is an increase of $136,000,000 over the 1990 appropriation. The full amount of the 1990 appropriation request of $239,000,000 was not opposed by the Appropriations Committees. However, it was stated that increased funds for 1990 were not available from the limited amount allocated for domestic discretionary spending. The 1991 budget request classifies this account to the Defense-related activities function (Code 054).

The level requested in this budget has been developed in conjunction with the Navy and is fully supported by the Department of Defense. The budget supports maintenance of the ships currently in the RRF and achieving the long-term Defense Department objective of 142 ships in 1994.

The amount requested in 1991 includes $49,400,000 for Fleet Additions, $171,600,000 for Maintenance and Operations, and $4,000,000 for Facilities. The funding for Fleet Additions will result in an increase of five ships; three tankers by upgrade, and one RO/RO and one tanker by acquisition for a total of 105 ships by the end of 1991. The Navy requirement of 142 ships in 1994 remains unchanged.

The funding for Maintenance and Operations will permit resumption of test activations to assess maintenance and activation capabilities and procedures ($16,000,000), provide sufficient funds to maintain the ships in the force ($147,183,000), and fund special programs principally the spare parts program ($8,417,000).

This concludes my prepared statement and I will be pleased to answer any questions that you may have.

#

Mr. ROGERS. Thank you for accommodating me, Mr. Chairman. I am late for another meeting.

PLANS FOR SHARING SHIPS

I wanted to ask you before I leave about the ship sharing situation. What does your 1991 budget plan have in it about sharing training ships among the State academics?

Captain LEBACK. Our 1991 budget provides for two ships to be shared between the five State schools.

STUDY ON AT-SEA TRAINING OPPORTUNITIES

Mr. ROGERS. The 1990 authorization act requires you to do an additional study on ship sharing, basically to evaluate other alternatives in terms of the same criteria, cost effectiveness, liability, safety and, so forth.

When do you expect to be submitting the additional report that is required by the 1990 authorization act?

Captain LEBACK. We should be in a position to submit it in midsummer, at least prior to the 60-day interval that was mandated last year, which would be no later than the 1st of August, if my numbers are correct.

SHARING OF TWO ADDITIONAL SHIPS

Mr. ROGERS. When you said that you are going to be sharing two training ships, does that mean two additional training ships?

Captain LEBACK. No. There are five training ships at present, two of which have been replaced within the last four to five years. One was replaced this year, and one about four years ago.

So, there would be two ships out of the five.

EVALUATION OF ALTERNATIVES

Mr. ROGERS. What are the alternatives you are evaluating?

Captain LEBACK. We are evaluating the possibility of doing additional training at sea on existing active vessels, for training and other aspects which make up the required sea time as required by the United States Coast Guard for licensing.

PROCEEDING WITH SHIP SHARING

Mr. ROGERS. Do you believe you will have taken all the proper steps on the issue and can finally proceed with ship sharing next year?

Captain LEBACK. I believe we will have taken all the proper steps towards the resolution of ship sharing and hope to be able to implement it.

AVOIDING BUYING NEW SHIPS

Mr. ROGERS. Well, I and others don't want to spend zillions of dollars over the next several years buying new ships for all the state academies. We simply can't afford it.

I am a great promoter of ship sharing. I hope and believe that we can provide the necessary training without having to buy everybody a new ship. What do you think about that?

Captain **Leback**. Well, we believe that if we can implement ship sharing, we will save the cost of three conversions for the three State academies whose ships are approaching, or are at, the 50-year-old mark.

We have spent, in the last two ships that were replaced, one for the State of Massachusetts, approximately $21 million, and for the one that we took delivery of last December for the New York State Maritime Academy, that is $21 million.

Bear in mind, Mr. Rogers, that these are vessels which the government owned or acquired either through Title XI mortgage bankruptcies, or we took out of the reserve fleet.

The numbers are for a converted ship.

They are not numbers for a brand new vessel.

Mr. **Rogers**. When you say new——

Captain **Leback**. New as we could do.

COST OF SHIP REPLACEMENTS

Mr. **Rogers**. Still $21 million?

Captain **Leback**. That is right.

Mr. **Rogers**. Last time I counted?

Captain **Leback**. That is right.

NUMBER OF STUDIES CONDUCTED

Mr. **Rogers**. Once this ongoing study is completed, how many studies will have been conducted on this issue? We have been doing this for a long time.

Captain **Leback**. I apologize. I wasn't up on that one, having only come here. I know it was a problem when I was a deputy during 1981 through 1985.

There have been five studies.

Mr. **Rogers**. It was a problem when you were a student, I believe.

Captain **Leback**. No, sir, it was not.

1991 SHIP REPLACEMENT FUNDS

Mr. **Rogers**. Well, you don't have any money in 1991 for another ship?

Captain **Leback**. No, sir.

POTENTIAL FOR FUTURE REPLACEMENTS

Mr. **Rogers**. You don't anticipate coming back to us for that kind of money?

Captain **Leback**. The Administration does not anticipate coming back for a replacement vessel.

STATUS OF THE NEW YORK SHIP

Mr. **Rogers**. Now, where do we stand on the New York ship?

Captain **Leback**. The New York ship was delivered in December of 1989. It is replacing the existing vessel, which will be transferred to the National Defense Reserve fleet.

It leaves for its first training cruise some time in mid-May or thereabouts. But, it is complete.

Mr. **Rogers**. I will yield at this time Mr. Chairman.

I want to thank you and the Captain, too.

STATUS OF AUTHORIZATIONS

Mr. CARR. What is the status of your authorization bill for 1991, Captain?

Captain LEBACK. We have authorization hearings on March 14. The bill has not yet been introduced. However, the Merchant Marine Subcommittee has scheduled a hearing on that date.

SENATE AUTHORIZATION HEARINGS

Mr. CARR. How about in the Senate?

Captain LEBACK. The hearings in the Senate have not yet been scheduled.

OMB REDUCTIONS

Mr. CARR. What was your budget request to OMB for each account? What reductions were made on that request?

Captain LEBACK. We can provide it for the record. I don't have it in front of me. I have the budget in front of me, but I don't have the differentials.

Mr. CARR. Don't you have some idea what you asked OMB about?

Captain LEBACK. Mr. Hawkins?

Mr. HAWKINS. Yes.

In the RRF program, we requested an amount of about $239 million.

That was presented and reduced to $225 million. In the O&T account, the amounts were about the same amount, $68 million in the O&T account.

The ODS account was increased approximately $33 million to accommodate a prior year's requirement that had not been obligated for us.

Mr. CARR. Let me see if I understand this. In other words, you requested that OMB increase you?

Mr. HAWKINS. No. The request was——

Mr. CARR. Was $30?

Mr. HAWKINS. That is correct.

Mr. CARR. $30 million more than you got?

Mr. HAWKINS. $30 million more than the base year. $30 million RRF.

Captain LEBACK. Our major reduction occurred in the RRF.

Mr. CARR. I believe counsel is confused and I am real confused. Let's start over.

What did you request of OMB for Operating-Differential Subsidies?

Captain LEBACK. Our request for the Operating-Differential Subsidies, there was no reduction in that at all. We put the money in that was required, which is——

Mr. CARR. You asked for $261.2 million and got $261.2 million?

Captain LEBACK. Yes.

Mr. CARR. What did you ask OMB for O&T?

Captain LEBACK. There was a $1 million reduction in that.

Mr. CARR. You requested $71 million?

Captain LEBACK. We requested $73 million.

Mr. CARR. And some odd change, and got $71 million. What was your request to OMB for Ready Reserve Forces?

Captain LEBACK. $239 million, and it was reduced to $225 million.

Mr. CARR. Okay.

Now, in each area can you give us a brief description of what the impact of these reductions will have on your program?

[CLERK'S NOTE.—Subsequent to the hearing, the Maritime Administration submitted the following information: The request to OMB for the O&T account was $73.5 million which was reduced by $1.8 million to $71.7 million. OMB reduced the ODS request by $46.1 million from $307.3 million to $261.2 million.]

Captain LEBACK. On Operating-Differential Subsidies, we don't see any impact at all on active contracts.

On Operations and Training, we believe the budget is adequate to maintain the agency and then provide the monies for the various schools that we are responsible for, the federal academy, and the six State schools.

IMPACT OF OPERATIONS AND TRAINING COSTS

Mr. CARR. I understand that you are obligated to say it is adequate. But you are $1.7 million less.

You either padded your figures going in or you have to take something out coming out. What is it?

Captain LEBACK. We will have to absorb that. There are some things——

Mr. CARR. What did you plan to do that you will not be doing is the question?

Captain LEBACK. In all probability it will come out of the areas we are working in both the Federal academy and the other operating programs, but not the State academies. It depends on how that $71 million ends up, that is how I can cut costs for support service during this fiscal year.

Mr. CARR. What was the $1.7 million for, is the question?

Mr. HAWKINS. Sir, there were provisions in the budget to accommodate the cost of living adjustments and inflationary adjustments including pay absorption. We will have to absorb this in part by maintaining a semi-freeze on certain positions to accommodate that reduction, but it would not require us to run any RIFs or things of that nature. They are mostly inflationary adjustments and pay raise absorptions.

Mr. CARR. In other words, you asked for $1.7 million above what you got for inflationary adjustments, and they weren't granted?

Mr. HAWKINS. That is correct. That is principally the area where we would absorb that difference.

READY RESERVE FORCE REDUCTIONS

Mr. CARR. Okay. How about the Ready Reserve Force?

Captain LEBACK. The Ready Reserve Force, as you know, as of last year we were down to, I think it was $89 million because it was a domestic program. This year it was rescored as defense related. On the Ready Reserve Force the request, the $225 million, we believe we will be able to do what we have to do, improve the ability of the Force itself.

The areas that—well, I can go through them and look at them. We have, in that $225 million, $49.4 million, which will add five ships to the RRF consistent with program plans to bring it up to 142 ships in 1994. Whether or not we acquire all of those depends on what the market conditions are.

There is a $68.6 million increase over the 1990 base. Out of that there was deferred maintenance in 1990, which we will have to take care of in 1991, $22.8 million for extensive deferred hull preservation and maintenance and the painting of 33 vessels which we just didn't have the money for this year.

Basically, with 98 ships in the fleet going into 1991 before the acquisition of an additional five, it will cost about $1.4 million on each ship for the maintenance of it, in the fleet.

In addition, we have $16 million earmarked for the activation of eight vessels. With 1990 there were no funds available and we had no test activation in order to test the system.

Mr. CARR. Captain, let me get to the bottom line. Maybe you have answered the question, but point me to it because I missed it. You were reduced by OMB $14 million?

Captain LEBACK. Yes.

Mr. CARR. What would the $14 million have been spent for?

Captain LEBACK. In the area of maintenance of the 98 ships, which comes out to how you are going to adjust to the monies that are available to cover the 98 vessels.

Mr. CARR. So it comes out of a maintenance account?

Captain LEBACK. Yes, the same as what we had to do in 1990.

Mr. CARR. Counsel has a question.

Mr. OSTHAUS. That $14 million was associated with maintenance money. Are you going to be in a position then in 1991, even if you got the $225 million, of having to reprogram some of that money into maintenance?

Captain LEBACK. I didn't quite understand.

Mr. OSTHAUS. You didn't get all your request for maintenance?

Captain LEBACK. $14 million difference.

Mr. OSTHAUS. In 1991, if we make the full appropriations of $225 million, will you still be short on maintenance money?

Captain LEBACK. No. Well, yes, we may be.

It just depends on how we use that $124 million that we have earmarked in there for the maintenance. We would have to defer a few things. Exactly what, I don't know at this point.

Mr. OSTHAUS. Perhaps you could expand on that for the record?

Captain LEBACK. Yes, we can. We can give you details.

[The information follows:]

The Maritime Administration's 1991 request to OMB for the Ready Reserve Force (RRF) was $239 million of which $225 million was allowed and subsequently submitted to the Congress. This was a reduction of $14 million of which $10.5 million was applied to Fleet Additions eliminating one ship from 1991 plans. Further, $2 million was applied to vessel test activations reducing the number of activations from 9 to 8, and $1.5 million to costs of outporting to be achieved through greater use of Government facilities. No reduction was made to the funds requested for maintenance of RRF ships as the highest priority is to take care of the ships currently in the force and prevent any deterioration that would take a vessel out of its assigned reactivation readiness status.

SEQUESTRATION AND BASE CUTS

Mr. **Carr**. How much was sequestered from your appropriations in 1990 and what impact did those reductions have on your activities?

Captain **Leback**. For O&T the 1990 request was $66.3 million, of which only $65 million was appropriated, or a basic reduction of $1.2 million.

What we had to do was to absorb approximately $2 million in pay raises. Actually we were slightly below it, but we were able to absorb the differences in the pay raises.

We have a selective hiring freeze. We have left positions empty, and are defering lower priority administrative expenditures.

Mr. **Carr**. What was the dollar amount of your sequestration?

Captain **Leback**. Actually, the amount that was appropriated was $0.1 million below the sequester target of $65,157,000. In addition to that reduction from the request of $66,300,000, we had to absorb $2 million in pay raises, which we are trying to do.

Mr. **Carr**. I have a number of questions I am going to submit for the record.

Captain **Leback**. Okay, fine.

Mr. **Carr**. I have a strong head cold, and I am running out of gas rapidly here.

NEED FOR THE RRF

Let me finish with the Ready Reserve Force. It seems to us in this and so many other ways why we are proposing such a massive increase in this particular program—like I said, in addition to some others, in view of the rapidly changing conditions in the Soviet Union and Eastern Europe, wouldn't the need for military sealift support decline because of the political changes in Eastern Europe?

Captain **Leback**. No.

If we reduce our forces in Europe in the preposition of equipment and bring them back here, we, in effect, are moving our deployment back 3,500 miles. In the event that something changes or the climate changes, you have additional sealift requirements to get the troops or their equipment back there.

At this point it would be too early to make a sound judgment as to whether or not this program should be reduced. I would be against it until we actually saw what was happening.

Mr. **Carr**. Of course, the opposite could be said, too.

Until we see what happens, we shouldn't do anything.

Captain **Leback**. I might ask, I do have support here.

Jon, do you want to address that.

Mr. **Kaskin**. My name is Jon Kaskin, the Director of the Strategic Sealift Division, Office of Chief of Naval Operations.

The sizing of the Ready Reserve Force was never predicated on the European scenario. It was always sized to move several Army division forces when we would not have allied support anywhere else in the world. Essentially it was sized for the Southwest Asia type of scenario.

In spite of changes in Eastern Europe, the Joint Chiefs of Staff are relooking at the scenarios. They are still proposing we have the capability to deploy the Army elsewhere in the world, and the capability of the Ready Reserve Force has matched the movement of a small divisional, multi-divisional force.

EXAMINATION BY THE JOINT CHIEFS OF STAFF

Mr. **Carr**. Did you just say that the Joint Chiefs are examining the question?

Mr. **Kaskin**. They are examining the questions of our mobility requirements, particularly in light of the major aircraft review which you heard about with respect to the C-17 and three other airplanes.

C-17 is part of the strategic mobility with sealift and prepositioning. In order to do that analysis, they were relooking at all various scenarios.

Part of that process is looking at the major regional scenarios.

Mr. **Carr**. Well, I might say that perhaps pending that review we ought to stay in close contact with someone about what your ultimate needs are going to be. It sounds to me like a lot of people are reviewing a lot of things.

This is a lot of money to commit to a strategy which may not ultimately play out.

I think the Committee wants to be helpful. I might editorialize against congressional procedure here for a second. You shifted some of your responsibility into DOD in terms of, I guess, paying for some of this stuff, in your eyes.

Yet in our own subcommittee here, that is an expertise that we don't have in the subcommittee. We might have a few Members here or there who are also Members of the Defense Appropriations Subcommittee, but we don't have that.

It is hard for us to be asked to take one little thing out of what is now a defense function and appropriate it because we don't know what the rest of anybody else is doing.

That is not your fault. It is our fault. We are not changing rapidly enough to respond to changing world conditions.

I might also further editorialize. No offense to my good friend here.

I am also on the Transportation Appropriations Subcommittee, and I can't figure out why you are not in front of that subcommittee instead of this one.

I think it just calls for some coordination with our folks over there on the Defense Appropriations Subcommittee. Just as you are coordinating, we have got to do the same thing. Maybe we end up giving the money.

As one Member, I would like to know we are doing it as a team instead of out here by ourselves.

I said one more, but I have got a clarification question that I had earlier. This will be the last one.

CHANGES IN TANKER TRADES

On the Operating-Differential Subsidy, the coastal trade apparently rapidly is dropping off and the foreign trade is rapidly picking up. Is that the case?

Captain **Leback**. The tanker trade is declining in the domestic services due to the reduction in production of the North Slope Oil, and the changing patterns as to where it is being delivered.

Mr. **Carr**. My information is the foreign trade has increased a little bit.

Captain **Leback**. It has.

Mr. **Carr**. Now we have the reverse situation than we had several years ago where we had foreign tankers wanting to pay back their subsidy to get into the domestic trade. Now apparently we have a lot of domestic tankers trying to get in the foreign trade; right?

Captain **Leback**. Not so much—some of them, but not all of them. Factors on competing in the foreign trade or the domestic tanker is such that it is hard to do.

SUBSIDY FOR FOREIGN TRADE

Mr. **Carr**. Well, doesn't the law now provide for American ships to get a subsidy for foreign trade?

Captain **Leback**. There have been no new subsidy contracts granted since about, in the early 1980's.

Mr. **Carr**. I understand. They qualify now under the Section 601 of the Merchant Marine Act?

Captain **Leback**. They qualify if they are built in the United States, owned in the United States, registered in the United States and manned with U.S. citizens. However, they still have, that company would still have to make the application and go through the hearing process in order to get a subsidy, to be provided with a subsidy.

I do not have the authority to grant a subsidy unilaterally without following the requirements of the act.

Mr. **Carr**. Well, I think maybe you are correct. The Secretary can.

Captain **Leback**. No. You still have to make the application, find that the need exists as far as service, it is in the interest of the development of trade of the United States and it is in the interest of national defense.

APPLICATION OF TANKER SUBSIDIES

Mr. **Carr**. Is it then that no one has applied?

Captain **Leback**. No, we have had several apply.

Mr. **Carr**. What has happened to their applications?

Captain **Leback**. They are being held in abeyance until we complete a maritime review within the department to encompass all of the various facets of the 1936 Act, and its modifications in 1970 to see where—in other words, rather than doing it piecemeal, we want to come back with a program if it is appropriate.

Mr. **Carr**. Is there a time frame for this review to be completed?

Captain **Leback**. It would be mid-year.

Mr. **Carr**. Okay.

I think when the Secretary is over in my other subcommittee, I will ask him over there a couple of questions about that, too.

Captain **Leback**. He is. He is holding informative hearings within the department and with people from other interested departments to support his National Transportation Policy. I can tell you that.

Mr. Carr. Thank you very much.

Captain Leback. Thank you.

Mr. Carr. If there is nothing else, we will adjourn the hearing. Thank you.

[The following questions were submitted to be answered for the record.]

Questions Submitted by Chairman Smith

Ready Reserve Force

Question: In 1988 the Commission on Merchant Marine and Defense estimated that mobilizing the Ready Reserve Force in 1988 would have required 175 more crew members than were available. In addition, they said that by the year 2000 this shortfall would grow to over 4,300 merchant seamen.

a. Why should we maintain these ships in the more advanced state of readiness if there will be no crews to operate them?

b. In light of the planned acquisition of 42 more ships for the Ready Reserve Force, where do you propose to get the crew to staff these ships in five or ten years?

c. How much would be saved if the Ready Reserve Force, or a portion of it, was placed in the National Defense Reserve Fleet with its lower state of readiness?

Answer: a. There are a sufficient number of trained personnel in the active deep-sea labor force today to operate the active commercial fleet and the Ready Reserve Force. In addition, this labor force could be augmented rapidly with active seafarers in other industry sectors such as Great Lakes, inland waterways, and offshore oil.

b. We are concerned that a continued decline in the number of commercial vessels in the active fleet and in the average size of the crew on these ships could result in a substantial contraction of the active deep-sea labor force. However, we would continue to rely on the deep-sea sector augmented by active seafarers in other industry sectors discussed in the previous paragraph to provide priority manning for the active fleet and the RRF. We are presently conducting a mobilization manpower study which is designed to assist in considering alternative crewing options should we ascertain that we could find ourselves with crew shortfalls in the future.

c. Sizing of the RRF should not be considered as a funding issue without determining the impact on DoD contingency planning. The RRF is sized to meet present DoD contingency plans and overall strategy of forward defense and rapid reinforcement. A decrease in the number of RRF ships would undermine the capability of the United States to take actions that the Government deems appropriate particularly in a "go-it-alone" contingency that does not include our NATO allies.

Any savings derived from decreasing the readiness of our sealift assets must be weighed against the impact those savings would have on our National defense capabilities. The underpinning for the development of the RRF was precisely because the national sealift assets both actively at sea and in the NDRF were inadequate to meet sealift needs to support U.S. armed forces overseas in the early stages of conflict. The buildup of the RRF to meet that shortfall has evolved over a decade of concerted effort by DoD and MARAD to acquire and maintain vessels in an adequate state of readiness to meet sealift needs. After spending approximately $1.3 billion in acquiring and upgrading ships and in keeping these ships in prescribed 5-10-20 day readiness, to return these vessels to a readiness state of 30 to 120 days would effectively remove the only method this country has, absent a strong active fleet, to meet Department of Defense deployment and reinforcement objectives.

An average of about $1.0 million per RRF ship for maintenance would be saved depending on which ship or ships were downgraded to NDRF status less any one time costs of placing the ship in the NDRF. Total elimination of the RRF program would require significant one time costs to consolidate the ships at the fleet sites as well as the continuation of the facilities program to accommodate the increased size and number of ships at the three NDRF sites.

NDRF ships are merely maintained under dehumidification with minimal preservation maintenance. It would take 30-120 days after funding has been authorized to reactivate one of these ships at an average cost of $2 to 5 million more than to activate a vessel in RRF status.

Downgrading portions of the RRF to NDRF status would effectively reduce our ability to meet DoD's present surge sealift mobility requirements to deploy forces and equipment and rapidly to reinforce forward-deployed troops. Our troops would not get supplies and equipment in the early stages of combat or emergency. Accordingly the resources needed to carry out the national objectives that gave rise to the mobilization would be delayed for between 30 and 120 days beyond current plans.

Question: I understand that the Ready Reserve Force appropriation account has been changed from the transportation budget function (403) to National Defense (054). What is your view of the priority that the Department of Defense gives to this program?

Answer: The Department of Defense places a high priority on this program, and the Secretary of Defense requested the budget function change in a letter to OMB.

In addition, Secretary Cheney has recently stated in his military posture statement that strategic mobility will become ever more critical to the protection of U.S. global interests in the future as the U.S. presence abroad is reduced under negotiated agreements. The Ready Reserve Force (RRF) is an integral part of the resources needed to meet Department of Defense strategic sealift requirements in the early stages of war or armed conflict, especially in a "go-it-alone" contingency that does not include our allies.

Further, the Department of Defense has just testified to the Merchant Marine Subcommittee of the House Committee on Merchant Marine and Fisheries that developments in Europe have not changed their requirements for the Ready Reserve Force. The budget requests are based on contingencies that do not involve European NATO allies.

Finally, the National Security Sealift policy approved by the President on October 5, 1989 calls for the United States to be prepared to respond unilaterally to security threats in geographic areas not covered by alliance commitments when allied shipping would be available. Sufficient U.S. owned sealift resources must be available to meet requirements for such unilateral response.

Question: a. Please provide for the record a detailed breakdown of the 1990 and 1991 costs of this program.

b. It appears that the Maintenance and Operations portion of this program would increase from $85 million in FY 1990 to $171.6 million in 1991. Please explain for the record why such a large increase in M&O funds is necessary.

c. The requested increase also includes $49.4 million for five additional vessels. What five additional vessels are being considered for the Reserve Force?

d. Would the Administration proceed with additional crane ships, an item which we understand will not be funded in FY 1990?

Answer: a. The following is a detailed breakdown of the 1990 and 1991 costs of the RRF program:

	Amount ($000)		
Activity	1990	1991	Change
Fleet Additions.............	...	49.4	+49.4
Maintenance and Operations			
Activations	...	16.0	+16.0
Maintenance and berthing	79.4	147.2	+67.8

Special programs	5.6	8.4	+2.8
Subtotal, maintenance and operations.......	85.0	171.6	+86.6
Facilities................	4.0	4.0	...

The amount requested in FY 1991 is required to support Navy and MARAD strategic sealift plans and is actually $14 million less than the Administration's request last year of $239 million and the average of funding appropriated for this account during FY 1986, 1987 and 1988.

In FY 1990, the Administration requested $239 million to fund the RRF; however, only $89 million was appropriated as the account was scored as domestic discretionary spending (Code 403). The appropriation committees stated that increased funds for 1990 were not available from the limited amount allocated by the appropriation committees for domestic discretionary spending. In the 1991 request, this account has been scored as defense related (Code 054). The severe reduction in 1990 resulted in the interruption of several key and planned elements of the RRF program, such as acquisition and upgrade of vessels and use of RRF test activations as well as severe curtailment of maintenance.

b. $171.6 million has been requested for Maintenance and Operations which is an increase of $86.6 million over the $85 million level in 1990 to maintain the ships in the force. Maintenance of ships is the highest priority and several increases are necessary to sustain the readiness categories required by DoD. The maintenance program was grossly under funded in 1990 and necessitated reprogramming $9,536,000 to provide additional resources. However, there was still a $22,421,000 shortfall in maintenance funds when compared with the FY 1990 request even after reprogramming. Thus 1991 maintenance has an increase of $31,957,000 to compensate for the 1990 shortfall in funding.

$171.6 million requested for Maintenance and Operations is required for the following:

	($ in millions)	
		1991
	REQUEST	INCREASE
Maintenance and Operations:		
Activations	16.0	+16.0
Maintenance and Repair:		
Deferred hull preservation and painting	22.8	+22.8
Regulatory/sealift readiness......	124.4	+45.0
Special programs (spare parts)	8.4	+2.8
Total, Maintenance and Operations.......................	171.6	+86.6

RRF test activations - $16 million is requested for test activation of 8 ships compared to zero funds and no test activations in 1990. These activations are necessary to test the effectiveness of maintenance programs as well as the performance of the ship managers in maintaining and being able to activate and man the ships. The requested funds will permit resumption of test activations in 1991.

Maintenance and Repair - $147.2 million is requested (an increase of $86.6 million) to maintain a force expanding from 98 vessels at the beginning of FY 1991 to 105 vessels at the end of the year, costs of outporting 47 ships, and for special programs which is principally the procurement and management of spare parts.

$22.8 million will be used for extensive deferred hull preservation maintenance and painting of 33 vessels (average cost $689,700 per vessel) which will prevent further deterioration and resultant additional maintenance and repair costs. Deferral of work resulted primarily from 1990 funding limitations.

$124.4 million (+$45.0 million increase over the 1990 base) is requested to meet regulatory requirements and to provide the maintenance and repairs necessary for 105 ships to meet their activation readiness requirements. The programs include outporting, ship manager maintenance of ships and fees, drydocking of ships, annual and regulatory maintenance programs including inspections and maintenance and repairs required to maintain the ships in class and certificated, in-house ship maintenance, and program administration. The increased funding will make up for deficiencies in 1990 as well as enable us to do drydockings on a ten year cycle instead of five year. RRF vessels are maintained to meet certification requirements of the Coast Guard and classification standards of the American Bureau of Shipping. In spite of limited funds in 1990, we hope to avoid having any RRF vessels drop out of class; however, substantial increases are critical for 1991.

Spare parts program - $8.4 million (an increase of $2.8 million over a $5.6 million 1990 base). We have laid the groundwork for determining the mission related equipment and spare parts necessary for all of our vessels and need an increase in funding to complete correction of the problem by verification of on-board inventories for twenty ships per year through 1993, the acquisition of spare parts on a priority basis and provision of a warehouse effort to store, maintain and control this equipment.

Unless additional funds become available in FY 1991, the Department's continued ability to meet stated DoD readiness criteria for the RRF, as well as meeting the 142 RRF ship goal in 1994, will be in jeopardy. For this reason, full funding for all critical program elements are included in our FY 1991 request.

c. An increase of $49.4 million over a zero base in 1990 is requested which will add an estimated 5 ships to the RRF (four tankers and one Ro/Ro). The requested RRF budget supports DoD plans for the RRF to expand to 142 ships by 1994.

d. The Auxiliary Crane Ship Program (T-ACS) is a long term program established by the Navy to meet the need for development of 12 specialized ships to off-load other supply vessels, such as container ships, during amphibious operations. Navy guidance still includes the T-ACS 11 and 12 vessels in the overall goal of 142 ships in 1994.

Operations and Training

Question: Why are you proposing to merge the Research and Development account into Operations and Training, and what are the balances involved?

Answer: The purpose of the merge is a reduction in the number of separate accounts maintained by MARAD, OMB and Treasury and a resultant simplification of the budget appendix. We are merging $2,612,000 of 1990 end of year obligated balances which will be spent out as contacts are completed.

Question: You are proposing a program increase of $2 million to replace the radar training equipment at the U. S. Merchant Marine Academy. Why is this necessary since the radar simulator is only about ten years old? Do the State Marine Schools have comparable, up-to-date radar facilities?

Answer: The current equipment, which is over ten years old, cannot be maintained due to age and unavailability of spare parts. Further, it is not up to date with respect to conditions on board ships in the present day merchant marine. Deck officer graduates must have this training in order to qualify for Coast Guard licenses, the standards for which are becoming more rigorous.

The State maritime academies have radar training equipment, and we would expect them to acquire similar equipment when replacements are necessary, if they have not already done so.

Contracting Out

Question: Last year the Maritime Administration conducted an A-76 review for contracting out of certain activities of the Maritime Administration. What was the outcome of that review? How much in savings, if any, were identified?

Answer: The review, including formal solicitation from the private sector to manage and operate the NDRF, was completed on September 18, 1989.

No proposals were received from the private sector, and MARAD will continue to manage and operate the NDRF.

Under provisions of OMB Circular A-76, the question of contracting out would not be reviewed for another five years.

Savings of 48 positions and $600,000 were identified as part of this study and these reductions have already been taken in the 1989 and 1990 budgets.

State Marine Schools

Question: What is the status of the conversion of the MORMACTIDE to a training ship?

Answer: The conversion from a merchant vessel to a "public nautical schoolship" was completed at the shipyard on Friday, December 8, 1989. The vessel was officially "delivered" to the State University of New York Maritime College at Fort Schuyler, New York by the Department of Transportation, Maritime Administration on December 31, 1989 at 1200 hours (EST), for use as a training vessel in accordance with the terms of Title XIII of the Merchant Marine Act, 1936, as amended. The ship is now named EMPIRE STATE VI. In addition, the ship was also assigned status as a troopship in the RRF on January 3, 1990.

The cost of activation and conversion is currently $22.8 million. MARAD funded the activation and conversion to a training ship at a cost of $21.1 million and the Navy funded $1.7 million of national defense features to enhance the vessel's usefulness to the RRF.

Question: You are budgeting $6,772,000 for training ships. What are the specific costs for maintenance of two ships in your sharing plan, and what other uses would be made of these funds?

Answer: The costs for the first or transitional year of ship sharing breaks down as follows:

Maintenance and repair of five ships...	$5,587,000
Other costs:	
Movement of ships between schools......	235,000
Outfitting and inventory of shared ships..............................	600,000
Ship keeping staffs	350,000
Subtotal, other costs...............	1,185,000
Total................................	6,772,000

The costs of the second year, or first full year of ship sharing, would be as follows:

Maintenance and repair of two ships....	$4,555,000
Other costs:	
Movement of ships between schools......	529,000
Outfitting of a back up ship	750,000
Ship keeping staffs	851,000
Transportation of crew, staff, cadets and baggage between schools..........	87,000
Subtotal, other costs................	2,217,000
Total..................................	6,772,000

Question: You are conducting a study of training ships at the State Marine Schools as required by your 1990 authorizing legislation. What are the issues to be covered in this study, when will it be completed, and why are you simultaneously suggesting a two ship program for the State Schools?

Answer: The study will examine at-sea training opportunities for the State maritime academies and the U.S. Merchant Marine Academy. This study is not a ship sharing study.

The study will determine how currently employed training vessels, United States-flag commercial vessels, vessels in the Ready Reserve Force, and other vessels under the control of the United States Government may be used to provide training opportunities for state, regional, and Federal maritime academy students that will provide licensed graduate officers. The study will include data on the cost effectiveness to the United States Government; the cost impact on the affected State governments; the safety of any vessels involved; the safety of the students; the operational and scheduling impact upon the several entities involved; liability exposure; and the impact on national security sealift.

The study is well underway with an anticipated completion date of mid-summer. When finalized, the study will be forwarded to the authorization Committee for review.

The objective of ship sharing is to minimize the cost of replacing training ships while providing sufficient effective training to State marine school students to be eligible to obtain deck officer licenses. One way of reducing the long term costs of this program is to minimize the cost of replacement ships. We currently have two newly converted large ships which, if shared, eliminates the cost of any additional replacement ships.

While there is no immediate requirement to replace a training ship, two of the training ships are about 50 years old and it could be reasonably expected that they will need to be replaced soon.

Question: On page MA-25 of the justifications, you state that you are examining student incentive payments. What will this examination entail and will it affect the FY 1991 budget request?

Answer: We are studying whether the existing SIP program is the best way to meet our objective of providing an adequate supply of licensed officers to serve on U.S.-flag vessels in peacetime and during national emergencies. We believe that SIP graduates should be obligated to serve the country's needs in an emergency, commensurate with the level of Federal support to the schools. The outcome will not affect the FY 1991 budget request.

Operating-differential Subsidies

Question: What is the reason for the $35,330,000 increase requested for this item in FY 1991?

a. I understand that $15 million of the increase is requested to make up a shortfall in the estimate for FY 1990. Why was your FY 1990 estimate short by $15 million?

b. Are any new ODS contracts being contemplated for FY 1991?

Answer: a. The increase in the 1991 estimate was primarily due to an underestimate of 1990 which resulted in an estimate of $15,650,000 of unfunded contract authority for 1990. The 1991 request funds the 1990 amount and the corresponding amount in 1991 which was due to an estimated increased use of ships.

b. No new contracts are being contemplated for FY 1991.

Question: The 1991 budget does not reflect a proposal for ODS reform.

a. What happened to the reform proposal that the Maritime Administration had under consideration last year? deferred to another year?

b. How would your reform proposal affect the ODS budget?

c. How would your reform proposal affect the U.S. shipyard mobilization base?

Answer: The Department at this time is undertaking a comprehensive review of all maritime policies including

ODS reform. Until the review is complete and a decision on ODS reform has been reached, it would be premature to determine the budget and shipyard mobilization effects.

Question: How many additional bulk vessels will enter into the ODS program in 1990 and 1991, and how will they meet national security needs?

a. I understand that these vessels may already be eligible for the cargo preference and ocean freight differential programs. If so, why should they be added to the ODS program?

b. How much would these additional 17 bulk vessels cost the ODS program in FY 1991?

Answer: Fourteen additional bulk vessels were included in 1990 and three more in 1991. The 1990 and 1991 estimates show increases in the number of vessels under subsidy principally due to the restructuring of some existing contracts.

a. The Maritime Administration has amended several of the bulk vessel ODS agreements to permit subsidy sharing whereby additional vessels were authorized to receive ODS under existing contracts, but the annual amount of ODS that would accrue under the amended contract would not exceed the amount of ODS that would accrue for the number of ship-years originally authorized. Such amendments enhance the subsidized operators' flexibility to participate in subsidized and non-subsidized (including preference cargo) trades and afford them an opportunity to more fully utilize the ODS agreement.

b. The impact of the 17 additional vessels on the 1991 budget is approximately $16 million.

Question: We have several programs to meet our national defense needs, including the Ready Reserve Force, Cargo Preference, and the Jones Act. In light of the changing political situation in Europe, would it be possible to reduce or eliminate the ODS program?

Answer: The active fleet is of the highest priority for purposes of providing an active seagoing work force, military sealift and sustaining the economy during major war. These vessels are integrated into all planning for military sealift. In any event, operating-differential subsidies in the existing program are based on long term, usually twenty years, contracts and are not reducible without consent of both parties.

Federal Ship Financing Fund

Question: Have you had additional defaults in the

Federal Ship Financing Fund and do you anticipate more? If so, will there be another supplemental to pay back Treasury for borrowings?

Answer: There have been two defaults thus far in 1990 and both were paid from fund balances. Currently, the fund has over $300 million which is available to cover further defaults should there be any additional defaults during 1990. At this time, we do not anticipate any requirement for borrowing from Treasury necessitating a supplemental for repayment.

Question: Is the Maritime Administration continuing its policy of making no new commitments under the Title XI program? If so, how effective is that program in promoting the construction of ships in U.S. shipyards? How many requests for Title XI commitments, including vessels and funds, do you have at the present time?

Answer: Based on an assessment of maritime markets no new commitments for loan guarantees are projected. MARAD will act on any application for Title XI financing in accordance with the requirements of the Title XI regulations. Currently there are no pending applications.

Question: What action is the Maritime Administration taking to ensure that high-risk loans do not go into default?

Answer: The Maritime Administration has developed an internal control system designed to identify Title XI guaranteed loans with a high risk of default. At least semi-annually, each Title XI shipowner is categorized as to its probability of default based on a comprehensive review of the shipowner's financial condition and other pertinent factors. These ratings are updated as circumstances warrant. Shipowners identified as having the highest risk of default are subject to increased scrutiny and senior MARAD management are kept up to date on their status via monthly status reports.

As permitted under statue and OMB requirements, MARAD can utilize various workout techniques to assist shipowners experiencing short term liquidity problems. In certain instances, MARAD has helped to facilitate the transfer of Title XI vessels to more credit worthy entities, lessening the risk of default for these vessels.

Reprogramming Procedures

Question: Inasmuch as personnel costs are managed by organization rather than program, how do you determine when or if the Appropriations Committees should be notified regarding reprogrammings for any program that involves personnel costs?

Answer: The Maritime Administration manages personnel and use of personnel by both organization and program. Positions are allocated to organizations to carry out the programs for which they are responsible or have a contributory or support responsibility.

The budget presents the maximum full-time permanent positions for a program and also presents the average number of all positions expected to be filled expressed as FTEs. Agency staffing levels are then monitored for each pay period and as long as they do not exceed allocations and there have been no formal reallocations of positions, we are assured that we are within our budget and that deviations in program totals are the result of the vagaries of random vacancies and minor shifts of programmatic workload that are normal for offices that serve more than one program.

A report of reprogramming would be made if the Agency made a deliberate decision to reassign positions in the current year between programs unless the change in workload was clearly mandated by the Congress. The Agency does not attempt to report on the projected impact of the vagaries of random vacancies that occur throughout the Agency that are not the result of a formal program decision and subsequent personnel actions to fill these vacancies. However, the final impact is included in the report of actual obligations by program at the end of the fiscal year.

Question: Are all manpower related resources obligated by object class and organization, and distributed after the fact to the program structure for reporting purposes only?

Answer: Manpower related resources are obligated by organization, object class and program. Agency staffing levels are monitored each pay period and as long as they do not exceed allocations and there have been no formal reallocations of positions, we know that we are within our budget and that deviations from the planning level are principally the result of the vagaries of random vacancies and minor shifts of programmatic workload which are normal for offices and individuals that serve more than one program .

Question: Does the Maritime Administration plan to revise its accounting system so as to present a program structure that accounts for total obligations for the same program elements in the budget estimates presented to the Appropriations Committees each year for the appropriations hearings?

Answer: The cost accounting system aggregates obligations in the same program structure as presented to the Congress. The Agency will be required to use the Department-wide accounting system now being implemented. The current schedule calls for MARAD to parallel during 1991 and be on the new system at the beginning of 1992. Although improvements should be made in direct fund accounting outputs these will be pursued in tandem with the changeover.

Questions Submitted by Congressman Early

State Marine Schools

Question: How many ships are currently in operation for the State marine schools?

Answer: Five ships are currently in operation.

Question: Does that include MORMACTIDE?

Answer: Yes, that includes MORMACTIDE which has been renamed EMPIRE STATE VI.

Question: The replacement ship MORMACTIDE was to be completed by November 17, 1989. What is the status of this ship? What was the total cost? Did the Maritime Administration fully fund the cost of the MORMACTIDE?

Answer: The MORMACTIDE conversion from a merchant vessel to a "public nautical schoolship" was completed at the shipyard on Friday, December 8, 1989. The vessel was officially "delivered" to the State University of New York Maritime College at Fort Schuyler, New York by the Department of Transportation, Maritime Administration on December 31, 1989 at 1200 hours (EST), for use as a training vessel in accordance with the terms of Title XIII of the Merchant Marine Act, 1936, as amended. The ship is now named EMPIRE STATE VI. In addition, the ship was also assigned status as a troopship in the RRF on January 3, 1990.

The cost of activation and conversion is currently $22.8 million. MARAD funded the activation and conversion to a training ship at a cost of $21.1 million and the Navy funded $1.7 million of national defense features to enhance the vessel's usefulness to the RRF.

Question: Does MARAD have any plans to refurbish any other ships in the near future for the State marine schools?

Answer: MARAD does not have any plans to fund refurbishment of any other ships in the future.

Question: What is the current status of the study on State maritime schools training ship-sharing plan? What are the preliminary findings or recommendations of this study? What has been done to resolve the disputes between MARAD and the State marine schools?

Answer: The State Maritime Schools Training Ship-

Sharing Implementation Plan was completed in August 1989. This plan concludes that ship sharing will work but requires the cooperation of the State schools. Ship sharing eliminates the costly need for replacement of any additional ships. MARAD has met and will continue to meet with the schools to discuss their views on a wide range of issues, including ship sharing. In particular, we met with them to discuss their plans for an alternative approach to training ships, and we are assessing their plan.

Ready Reserve Force

Question: The Maritime Administration set a goal of a 142-ship Ready Reserve Force (RRF) by 1994. What is the present number of RRF ships? Is MARAD proceeding towards its goal of a 142-ship RRF? What was MARAD's original funding request to OMB for Fleet Additions for the RRF for FY 1991? Do you believe the budget request of $49,000,000 for Fleet Additions is sufficient to achieve your desired goal of a 142-ship RRF by 1994?

Answer: The President's National Security Sealift Policy tasks the Department of Defense to determine the requirements for sealift of deploying forces, and follow-on supply and sustainment. DoD's current requirement is for 142 ships by 1994 consisting of 59 breakbulk, 9 heavylift, 24 Ro/Ro's, 12 T-ACS crane ships, 2 troopships, and 36 tankers. There will be 98 ships in the RRF at the end of 1990 when all those currently being upgraded are placed in the force.

MARAD's original funding request to OMB for Fleet Additions was $59.9 million. A funding level of $49.4 million was authorized and is estimated to add five vessels to the RRF for a total of 105. Increased funding will be necessary to meet the 142 ship goal during 1992 - 1994.

MONDAY, MARCH 12, 1990.

FEDERAL COMMUNICATIONS COMMISSION

WITNESSES

ALFRED C. SIKES, CHAIRMAN

ANDREW S. FISHEL, MANAGING DIRECTOR

RICHARD FIRESTONE, BUREAU CHIEF, COMMON CARRIER BUREAU

ROY STEWART, CHIEF, MASS MEDIA BUREAU

BRUCE FRANCA, DEPUTY CHIEF ENGINEER, OFFICE OF ENGINEERING AND TECHNOLOGY

RICHARD SMITH, FIELD OPERATIONS BUREAU

RALPH HALLER, CHIEF, PRIVATE RADIO BUREAU

Mr. SMITH. This afternoon, we have the 1991 budget request for the Federal Communications Commission. The request is for $117,998,000, which is an increase of $10,448,000 over 1990.

We will insert the budget justification submitted in support of this request into the record at this point.

[The justifications follow:]

FY 1991
Budget Estimates

Submitted to Congress By The Federal Communications Commission
January 1990

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APPROPRIATION LANGUAGE FY 1991

FEDERAL COMMUNICATIONS COMMISSION
SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $117,998,000 of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1992, for research and policy studies.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1990: additional authorizing legislation has been proposed.

INTRODUCTION

The Federal Communications Commission proposes a Fiscal Year 1991 budget of $117,998,000 and 1,778 full-time equivalents (FTEs). This represents a net increase of $10,448,000 over the the current FY 1990 Appropriation as adjusted for the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177.

Essential Resources Only

The Commission has requested only those resources needed to effectively carry out its statutory mission in response to a rapidly growing and ever changing telecommunications industry. Communications and related goods and services are increasingly central to furthering America's social and economic progress. It is essential that our country stay in the forefront of communications research and development, while maintaining economic strength and competitive diversity at home.

How effectively the Commission fulfills its responsibilities will significantly affect our Nation's future. Commission actions determine the availability of the communications resources needed to offer new services. Commission decisions often determine competitive opportunities and affect capital investments and jobs.

Commission Goals

The Commission must promote excellence in all aspects of communications. It must seek to ensure an open market environment conducive to achieving the maximum possible contribution from our Nation's communications resources for the future. **Through excellence, expanded opportunities, and responsive and adaptive regulation, the Commission can help maintain and, indeed, strengthen the national consensus in favor of marketplace solutions, while ensuring continued choice and availability of communications sevices for America's future. In accomplishing this objective, the Commission will:**

1. **Encourage the development of a competitive, innovative and excellent American communications system.**

2. **Provide effective and adaptive regulation for communications, while eliminating regulations that are unnecessary or inimical to the public interest.**

3. **Promote efficiency and innovation in the allocation, licensing and use of the electromagnetic spectrum.**

4. **Promote the vital interests of the American people in international communications and competitiveness.**

5. **Provide excellent service to the public in the most efficient, uncomplicated, timely and courteous manner possible.**

High Priority Areas

In order to accomplish these objectives, the Commission has applied its limited and declining resources to those areas which will most enhance the public interest. It has done this by giving a high priority to those programs and activities which authorize service, resolve critical safety of life interference problems, and increase the efficient use of the limited electromagnetic spectrum. In FY 1990 we will be able to maintain fundamental and critical functions at a minimal level.

Effects of Absorbing Pay/Health Increases

However, the FY 1991 Commission budget illustrates the negative impact of reduced resources available to the Commission because of the requirements to absorb all pay increases for FY 1989 and FY 1990 and 50% of the proposed 3.5% pay raise for FY 1991. In addition, the annualization of FY 1989 and FY 1990 costs associated with the agency portion of the health benefit cost increases will continue to erode the essential activities of the Commission. 77% of the FY 1990 appropriation is currently earmarked to pay the salaries and benefits for our employees. Additionally, 13% will be spent for totally non-discretionary expenses, such as rental of office space. Approximately 10% of the funds appropriated to the Commission will be available for those partially discretionary accounts, such as equipment, printing, travel, supplies, maintenance, etc. The Commission was able to fund only 1,765 full-time equivalents (FTEs) as opposed to the authorized ceiling from OMB of 1836 FTEs in FY 1989. With the full absorption of the FY 1990 pay increase we have projected that we can afford only 1,750 FTEs throughout FY 1990 which further reduces our workforce.

Effects of Previous Budget Reductions

Assuming that Congress appropriates the amount requested in the President's FY 1991 budget, the impact of reductions over the past four years has and will continue to affect the Commission's activities as follows: increased application processing times and slowed service to the public; deferred staff productivity improvement initiatives; delayed technical improvements needed to monitor new technologies, identify and eliminate interference, and respond to complaints; and continued deterioration of physical plant due to lack of funding for repairs and maintenance. Although the enhanced funding available in FY 1990 will address some of these issues, the remaining areas will continue to diminish the Commission's total effectiveness.

Loss to Treasury of Tax Revenue

As a consequence of the reduced funding for the Commission in FY 1989, we estimated that the Federal government would lose **$52 million** in tax receipts because of the delays in processing TV, FM and cellular radio licenses.

These delays range from 30 days for the cellular systems to one year for the TV and FM stations. This tax revenue loss was based on the present value of the profit stream resulting from the radio systems' operations. The profit stream was based on the market price of the systems minus tangible assets. The tax revenue loss will be substantially higher if the application backlog increases in FY 1990 or FY 1991 due to insufficient funding. Therefore, consideration should be given to the long range economic assumptions associated with the Commission's potential to affect tax receipts for the U.S. Treasury.

Recognizing overall Federal budgetary constraints, the Commission is requesting a budget funding level for FY 1991 which will allow the Commission to move forward and partially offset the impact of reduced funding in prior years.

The Budget Format

The Commission has followed the format which was first used in our FY 1988 Budget Request. This format was adopted to reduce paperwork and provide a more cogent justification of the additional resources requested. This budget embraces our resolve to meet current and future workload requirements where possible through increased productivity rather than through staff increases.

To begin, we assumed a base funding level of $107,550,000, the amount available for the Commission in FY 1990 after sequestration. The base was then adjusted to account for anticipated uncontrollable cost increases to our operating accounts other than Compensation and Benefits. These increases amounted to $676,000. We then deleted those costs for one-time expenditures in FY 1990 which totaled $1,073,000. To this adjusted base we added $3,971,000 to cover the cost of annualizing the FY 1990 payraise in FY 1991, 75% of the total FY 1991 proposed pay increase, one extra paid day and the annualized costs of increases to Health Benefits in FY 1990. This funding is needed if we are to maintain the base required for personnel compensation and benefits. In previous years, absorbing these costs has reduced the number of people we can employ. Each year, the base compensation account is further eroded, causing still further staff reductions.

Base Requirements and Programmatic Increase

After providing for the maintenance of our base funding for personnel compensation and benefits and allowing for uncontrollable cost increases, our base budget requirement for FY 1991 is $111,124,000. In addition to this base requirement, we are requesting $6,874,000 for programmatic increases to meet current and projected workload objectives.

As mentioned above, the Commission proposes to meet the challenges of increased workload mainly through improved staff productivity. Much of the increased productivity will be accomplished through enhanced automation. A significant portion of the programmatic increase requested in this budget is for computer support and other automation enhancements.

In total we are requesting $1,022,000 for additional or replacement automation capability. Some of the major items for which these funds are requested include:

- Automation to enhance the processing of Advanced or High Definition Television applications.
- ADP equipment and software to provide support to the Special Services Division of the Private Radio Activity.
- ADP equipment to develop terrain dependent propagation models and provide support for equipment testing and spectrum utilization analysis, personal computer equipment to support international conference activities, and computer support for engineering activities.
- Computer production support for critical Commission-wide activities, and completion of the office automation network including service contracts to evaluate the benefits of Mass Media Migration and electronic filings, software to interface departmental computers with PCs, and funds to replace six tape drives for the Honeywell mainframe computer.

In addition to automation, we are requesting funds for other vital program improvements. Additional funds are requested to begin the purchase of systems furniture and monitoring equipment/antennas for our planned consolidation of our Headquarters offices in FY 1992. Also, funds are requested to provide 28 additional FTEs to accomplish the mandated responsibilities of the Commission. This portion of our request is critical to the ongoing effectiveness of our national telecommunications program. Our request also includes funds for contractual services to provide cross-servicing of our financial activities in an effort to provide a more cost efficient program. We are also requesting funds to perform specialized HDTV analysis and to support security and investigation efforts of the Inspector General. Finally, funds are requested to allow the Commission to purchase new technical equipment to replace obsolete and "wornout" equipment used by the Field Operations and Engineering and Technology Activities.

This is a brief description of our FY 1991 Budget Request. Details and a full justification for specific programmatic increases are included in the individual Activity narratives.

Summary of FY 1991 Budget Request

	Dollars	Permanent Positions
FY 1990 Appropriation	$ 109,000,000	1,835 1/
Less: Funds sequestered by the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177	$- 1,450,000	
Plus: Funds to annualize FY 1990 payraise, fund 50% of the FY 1991 payraise, provide for extra paid day, and increased Health/FERS costs.	$+ 3,971,000	
Plus: Uncontrollable FY 1991 cost increases	+ 676,000	
Less: Non-recurring FY 1991 costs	- 1,073,000	
Plus: Programmatic increases	+ 6,874,000	
Total	$ 117,998,000	1,835

1/ During FY 1989 a decision was made to reduce the existing full-time permanent position ceiling from 1,889 to a level commensurate with available FTE funding levels.

BUDGET IN BRIEF
(Dollars in thousands)

The Federal Communications Commission's budget estimates for Fiscal Year 1991

APPROPRIATIONS:	1989 Actual	1990 Est.	1991 Est.	Change
Regular Appropriation				
Appropriation	$ 99,613	$109,000	$117,998	$ 8,998
Funds sequestered by the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177	--	- 1,450	--	+ 1,450
Available from Prior Year	--	--	--	--
Subtotal - Direct Appropriation	$ 99,613	$107,550	$117,998	$+10,448
Other Budget Authority				
Extension of Authority to Obligate funds from an Indefinite Appropriation (P.L. 99-88) for the Final Phase of the Fort Lauderdale Monitoring Station P.L. 100-459	+ 1,247	--	--	--
TOTAL	$ 100,860	$107,550	$117,998	$+10,448
DISTRIBUTION OF OBLIGATIONS:				
Regular Appropriation				
Personnel Compensation	$ 68,572	$ 71,660	$ 75,442	$+ 3,782
Personnel Benefits	11,112	11,590	12,693	1,103
Benefits to Former Employees	60	60	60	--
Other Obligations	19,869	24,240	29,803	+ 5,563
Subtotal - Direct Appropriation	$ 99,613	$107,550	$117,998	$+10,448
Other Budget Authority				
Personnel Compensation	--	--	--	--
Personnel Benefits	--	--	--	--
Benefits to Former Employees	--	--	--	--
Other Obligations	+ 1,247	--	--	--
TOTAL	$ 100,860	$107,550	$117,998	$+10,448

OUTLAYS:				
Regular Appropriation				
From Prior Years	$ 11,138	$ 11,801	$ 6,457	$- 5,344
From Current Appropriation	87,208	101,093	110,918	+ 9,825
Subtotal - Direct Appropriation	$ 98,346	$112,894	$117,375	$+ 4,481
Indefinite Appropriation				
From Prior Years	1,024	--	--	--
From Current Appropriation	--	--	--	--
TOTAL	$ 99,370	$112,894	$117,375	$+ 4,481
TOTAL POSITIONS	1,835	1,835	1,835	- -
FULL-TIME EQUIVALENTS	1,765	1,750	1,778	+28

Non-recurring FY 1990 Costs

o ADP Service Contracts and Equipment [1]	$- 1,013,000
o Technical Equipment [2]	$- 8,000
o Buildings [2]	$- 52,000
Total non-recurring FY 1990 Funding	$- 1,073,000

[1] One-time costs associated with support of ARMIS for CCB, purchase of VAX computer and other ADP equipment, to support various studies on electronic information transfer, electronic filing and mainframe replacement, and FM/TV studies for MMB, Momentum network replacement for FOB, PCs to develop propagation models for OET, equipment to upgrade application processing system modifications for PRB, and a microform reader/printer for OMD.

[2] One-time cost of equipment, material and construction to provide an indoor test facility at the Laurel Laboratory of OET.

FY 1991 Uncontrollable Cost Increases

o	Office Space Rental	$+ 344,000
o	Telephone Service	$+ 32,000
o	Printing of FCC Records/Daily Releases, Publications, Forms and Miscellaneous Items	$+ 40,000
o	ADP Production Support, Maintenance, Service Contracts, Computer Output Microform and Supplies	$+ 142,000
o	Miscellaneous	$+ 118,000
	Total Uncontrollable Cost Increases	$+ 676,000

FEDERAL COMMUNICATIONS COMMISSION
FY 1991
SUMMARY OF CHANGES
(Dollars in thousands)

SUMMARY OF CHANGES	FY 1991 Request FTE	 Amount
Appropriation, FY 1990	1,750	$109,000
Funds sequestered by the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177	- -	- 1,450
Available from prior year	- -	- -
Authority to Carry Forward prior years' reimbursements of funds under the Travel Reimbursement Program	- -	- -
Subtotal	1,750	$107,550
A. **Built-in Changes:**		
Compensation and benefits	- -	+ 3,971
Travel and transportation of persons	- -	+ 0
Transportation of things	- -	+ 7
Rents, communications, utilities	- -	+ 396
Printing and reproduction	- -	+ 34
Other services	- -	+ 191
Supplies and materials	- -	+ 48
Equipment	- -	+ 0
Land, buildings and structures	- -	+ 0
Subtotal	- -	$+ 4,647

	FY 1991 Request	
	FTE	Amount
B. **Program Decreases:**		
Commissioners	- -	$ - -
Inspector General	- -	- -
Mass Media	- -	- 200
Common Carrier	- -	- -
Private Radio	- -	- -
Field Operations	- -	- 424
Engineering and Technology	- -	- 60
Support	- -	- 389
Subtotal	- -	$ -1,073
C. **Program Increases:**		
Commissioners	- -	$ + 5
Inspector General	- -	+ 50
Mass Media	+ 10	+ 314
Common Carrier	+ 4	+ 423
Private Radio	+ 3	+ 123
Field Operations	+ 5	+ 743
Engineering and Technology	+ 4	+ 769
Support	+ 2	+4,447
Subtotal	+ 28	$ +6,874
Total, Net change	- -	$+10,448
Total Appropriation requested, FY 1991	1,778	$117,998

A. Built-in Changes:

Compensation and Benefits - Increase results from additional funding required to annualize costs of the FY 1989 Federal Pay Raise; additional compensation and benefits to annualize the FY 1990 payraise and provide 50% absorption of the FY 1991 payraise effective January 1991; costs associated with annualizing the FY 1989 increase in health benefits; increased costs of the new Federal Employees Retirement System; increases for merit pay awards consistent with Office of Personnel Management (OPM) guidelines; as well as uncontrollable cost increases associated with accident compensation, and the cost of funding one extra paid day in FY 1991.

Transportation of Things - Increased requirement represents fixed cost increases associated with rental of non-passenger vehicles proposed for FY 1991.

Rents, Communications, Utilities - Increased requirement is the result of anticipated cost increases for rental of office space, rental of duplicating equipment, plus increased costs associated with field and departmental telephone services.

Printing and Reproduction - Increased requirement is the result of anticipated cost increases for printing Commission forms and publications, as well as fixed cost increases for Computer Output Microform (COM).

Other Services - Increased requirement is the result of anticipated cost increases for ADP production support, ADP equipment maintenance and service contracts; as well as fixed cost increases associated with field building and grounds maintenance, repair and storage of vehicles, repairs of technical and office equipment and furnishings; plus expected cost increases for security investigations and services, health services and training.

Supplies and Materials - Increased requirement is the result of expected cost increases for periodicals and subscriptions; departmental, field, duplicating plant and ADP supplies, plus fixed costs associated with petroleum, oil and lubricants for FCC-owned vehicles and equipment.

B. **Program Decreases:**

Mass Media - Decrease represents one-time cost of Multiuser Engineering Microcomputers to support the migration of BAPS FM databases from the Honeywell Mainframe.

Field Operations - Decrease represents one-time cost of hardware and software for Phase I replacement of the Momentum Computer Network.

Engineering and Technology - Decrease represents one-time costs associated with equipment, materials and construction to provide an indoor test facility at the Laurel Laboratory.

Support - Decreases represent one-time cost of hardware to support the FCC Master Office Automatior Plan; one-time costs associated with a study to assist the Commission in the selection of a Honeywell mainframe replacement; and an information audit study to identify and analyze the creation, use, and transfer of all information within the Commission and a study on Electronic Filing to determine the best approach for the implementation of electronic data exchange.

C. **Program Increases:**

Commissioners - Increase represents additional domestic travel funds to allow the Commissioners and their staff to attend meetings and conferences to improve communications between the Commission and the public, and promote a competitive marketplace.

Inspector General - Increase represents funds for contractual assistance to enable the office to contract for audit and investigative services.

Mass Media - Increase represents funding for 3 FTEs to support ATV related activities; ADP equipment and software to support specialized computing activities in the Policy and Rules Division; additional funds for travel and personnel for EEO activities; and additional personnel to support FM New and Major Change applications.

Common Carrier - Increase represents additional funds to provide ADP hardware, supplies, software and furniture to enhance computing capabilities, technical analysis and satellite coordination; also included are additional domestic travel funds for the Accounting and Audits program to perform on-site audits of telephone carriers and funding to provide 4 FTEs to support the formal complaints workload.

Private Radio - Increase represents additional funds to provide 3 FTEs to support Special Services, Land Mobile and Compliance activities. Also, ADP equipment and software to provide technical support for the Bureau Chief and Special Services.

Field Operations - Increase represents additional funds to provide new and replacement technical equipment; provide buildings and grounds maintenance for critical projects; purchase mobile automatic direction-finding (MADF) vehicles; provide funds for additional travel and fund 4 FTEs to support the Atlanta office.

Engineering and Technology - Increase represents additional funds to provide 3 FTEs, technical equipment, ADP equipment and software, a MICROVAX computer and contractual assistance in support of the Commission's effort in the development of an advanced television system (ATV) and studies on terrain-dependent propagation modeling. Also, funds are requested to support an FTE for frequency assignment coordination activity, and domestic and international travel.

Support - Increase represents additional funds for 2 FTEs and travel for EBS related activities; funds for contractual program assistance for cross-servicing with the National Finance Center and an interagency agreement with the National Communications System (NCS). Also, funding for headquarters relocation; funds for new and replacement ADP equipment and supplies for agency personnel; restoration of funds to the international travel account and ADP service contracts to determine the benefits of MMB's migration.

FEDERAL COMMUNICATIONS COMMISSION
BUDGET AUTHORITY
(Dollars in thousands)

Comparison by Activities:	FY 1990 Adjusted Appropriation FTE	FY 1990 Adjusted Appropriation Amount	Base for FY 1991 FTE	Base for FY 1991 Amount	FY 1991 Request FTE	FY 1991 Request Amount
Commissioners....................	33	$ 2,803	33	$ 2,914	33	$ 2,919
Inspector General................	4	228	4	372	4	422
Mass Media.......................	350	21,086	350	21,526	360	21,840
Common Carrier...................	308	20,193	308	20,854	312	21,277
Private Radio....................	195	9,745	195	10,104	198	10,227
Field Operations.................	380	21,329	380	21,708	385	22,451
Engineering and Technology.......	87	6,439	87	6,639	91	7,408
Support..........................	393	25,727	393	27,007	395	31,454
Total..................	1,750	$107,550	1,750	$111,124	1,778	$117,998

JUSTIFICATION OF PROGRAM AND PERFORMANCE
(Dollars in thousands)

Activity: **COMMISSIONERS**

FY 1990 Adjusted		FY 1991		
		1/	Budget Estimate	
FTE	Amount	Authorization	FTE	Amount
33	$2,803		33	$ 2,919

Objectives: To create, to the maximum extent possible, an unregulated competitive marketplace environment for the development of telecommunications; to provide a regulatory framework which permits markets for communications service to function effectively while eliminating unnecessary regulations and policies; to provide service to the public in the most efficient, expeditious manner possible; to protect and promote the interests of the American public in international communications; and to promote efficiency in the allocation, licensing and use of the electromagnetic spectrum.

Activity: **INSPECTOR GENERAL**

FY 1990 Adjusted		FY 1991		
		Authorization 1/	Budget Estimate	
FTE	Amount		FTE	Amount
4	$ 228		4	$ 422

Objectives: To provide policy direction for and conduct, supervise and coordinate audits and investigations relating to the programs and operations of the Commission; to review legislation and regulations relating to the Commission and make recommendations to Congress concerning the impact on economy and efficiency in the administration of programs; to recommend policies to promote economy and efficiency in the administration of Commission programs or detect and prevent fraud and abuse in Commission activities; and to keep the Chairman and the Congress fully and currently informed concerning fraud, abuses and deficiencies relating to the administration of Commission programs and operations; recommend corrective action and report to Congress and the Chairman on the progress of such action.

Activity: **MASS MEDIA**

FY 1990 Adjusted		FY 1991		
		Authorization 1/	Budget Estimate	
FTE	Amount		FTE	Amount
350	$21,086		360	$21,840

Objectives: To expeditiously process applications and permits for broadcasting, cable television and emerging television delivery systems (e.g., construction permits, operating licenses, renewal/assignment/transfer authorizations, and notifications or petitions for broadcast-related services); to develop, evaluate and review policies and rules, including those directly related to programming to ensure efficient use of the spectrum, guarantee first amendment rights, and encourage opportunities for new and improved services through diversity and competition; and to ensure that international agreements and technical operating procedures for establishing spectrum rights and privileges are consistent with national and domestic requirements.

Activity: **COMMON CARRIER**

FY 1990 Adjusted		FY 1991		
		Authorization 1/	Budget Estimate	
FTE	Amount		FTE	Amount
308	$20,193		312	$21,277

Objectives: To pursue policies which encourage diversity, innovation, competition and the development of new services in the common carriers; to pursue and review policies and procedures on international common carrier telecommunication matters which represent the best interests of the United States and eliminate or modify those that are shown to be unnecessary and unduly burdensome; and to collaborate with the states in studies of federal-state common carrier telecommunications regulatory matters.

Activity: **PRIVATE RADIO**

FY 1990 Adjusted		FY 1991		
			Budget Estimate	
FTE	Amount	Authorization 1/	FTE	Amount
195	$9,745		198	$10,227

Objectives: To respond to the telecommunications requirements of the public to meet all personal safety and protection of property needs; to increase the efficiency of all applications processing procedures in the private radio services; to prepare national proposals at international forums which affect all radio service groups; and to systematically review all services to identify rules, policies and procedures which can be eliminated.

Activity: **FIELD OPERATIONS**

FY 1990 Adjusted		FY 1991		
			Budget Estimate	
FTE	Amount	Authorization 1/	FTE	Amount
380	$21,329		385	$22,451

Objectives: To provide the public with greater user benefits of the various radio services through the resolution of interference problems and complaints; to promote aviation safety by regulating radio antenna structure marking and lighting; to assure safety of life and property by performing on-the-air technical measurements and inspections; to strengthen international relationships involving communications, particularly with Canada and Mexico; and to ensure that the Commission's field based enforcement and public service goals are achieved in the most efficient, expeditious manner possible.

Activity: **ENGINEERING AND TECHNOLOGY**

FY 1990 Adjusted		FY 1991		
			Budget Estimate	
FTE	Amount	Authorization 1/	FTE	Amount
87	$6,439		91	$ 7,408

Objectives: To obtain maximum use of the radio frequency spectrum through technical and scientific regulations that foster minimum marketplace constraints; to represent and advance U.S. communications interests at international conferences; to administer an effective program that provides the public, the Commission, and Congress with technical expertise in the development, modification or elimination of rules concerning further entry into the marketplace; and to simplify equipment authorization procedures to allow for the self-verification of new equipment, whenever possible.

Activity: **SUPPORT**

FY 1990 Adjusted		FY 1991		
		Authorization 1/	Budget Estimate	
FTE	Amount		FTE	Amount
393	$25,727		395	$31,454

Objectives: To provide administrative and legal services and efficient management support to the Commission's bureaus and offices; to coordinate inter-bureau policy; to disseminate and publish Commission actions and decisions; to execute the Commission's emergency communications and preparedness functions; to provide effective personnel and financial resource management; to promote a Commission information management system that encourages increased productivity and reduces the regulatory burden on the public; and ensure the integration and coordination of the Commission's international policy activities.

1/ The Federal Communications Commission does not have a Fiscal Year 1991 Authorization as of the time of this submission.

FY 1991 BUDGET REQUEST
ALLOCATION BY EXPENSE ELEMENT
(Dollars in thousands)

EXPENSE ELEMENT	FY 1989	FY 1990	ADJUSTMENTS TO ESTABLISH BASE	BASE	NET PROGRAMMATIC CHANGE	FY 1991 TOTAL REQUEST
11.00 Personnel Compensation	$68,200	$71,140	$2,998	$74,138	$778	$74,916
11.05 Witness Fees	0	1	0	1	0	1
11.08 Indirect Payments	21	63	0	63	0	63
11.09 Incentive Awards	107	192	0	192	0	192
11.10 Merit Pay Awards	201	195	6	201	0	201
11.11 SES/Presidential Awards	40	64	0	64	0	64
11.12 Other Awards	3	5	0	5	0	5
OBJECT CLASS 11 TOTAL	$68,572	$71,660	$3,004	$74,664	$778	$75,442
12.00 Personnel Benefits	$10,933	$11,406	$937	$12,343	$136	$12,479
12.07 Accident Compensation	109	144	30	174	0	174
12.08 Station Change Allow.	70	40	0	40	0	40
OBJECT CLASS 12 TOTAL	$11,112	$11,590	$967	$12,557	$136	$12,693
13.01 Unemployment Compen.	$60	$60	$0	$60	$0	$60
13.02 Severance Pay	0	0	0	0	0	0
OBJECT CLASS 13 TOTAL	$60	$60	$0	$60	$0	$60
21.01 Domestic Travel	$477	$719	$0	$719	$110	$829
21.02 Recruiting Travel	0	6	0	6	0	6
21.05 International Travel	130	200	0	200	34	234
21.06 Rental - Pass. Vehicles	17	23	0	23	0	23
21.09 Joint Board Travel	37	45	0	45	0	45
OBJECT CLASS 21 TOTAL	$661	$993	$0	$993	$144	$1,137

FY 1991 BUDGET REQUEST
ALLOCATION BY EXPENSE ELEMENT
(Dollars in thousands)

EXPENSE ELEMENT	FY 1989	FY 1990	ADJUSTMENTS TO ESTABLISH BASE	BASE	NET PROGRAMMATIC CHANGE	FY 1991 TOTAL REQUEST
22.01 Ship. Household Goods	$19	$62	$0	$62	$0	$62
22.03 Shipment of Things	10	11	0	11	0	11
22.04 Rent. Non-Pass. Veh's.	131	138	7	145	0	145
OBJECT CLASS 22 TOTAL	$160	$211	$7	$218	$0	$218
23.01 Rent. Land/Office Space	$9,853	$10,322	$344	10,666	$0	$10,666
23.02 Rent. Dupl. Equipment	315	301	15	316	0	316
23.03 ADP Hardware Rental	84	125	0	125	0	125
23.04 Departmental Telephones	559	515	21	536	0	536
23.05 Field Telephones	275	287	11	298	0	298
23.06 FTS	757	800	0	800	0	800
23.07 ADP Computer Time Rent.	0	0	0	0	0	0
23.08 Mail	917	1,058	0	1,058	0	1,058
23.09 Teletypewriter Service	189	148	0	148	0	148
23.10 Telegrams/Cablegrams	15	20	0	20	0	20
23.11 Utilities	192	211	5	216	0	216
23.12 Miscellaneous Rentals	4	7	0	7	0	7
23.13 Rent. Microform Equip.	0	254	0	254	0	254
OBJECT CLASS 23 TOTAL	$13,160	$14,048	$396	$14,444	$0	$14,444
24.01 Monthly Dec./Bound Vol.	$228	$219	$15	$234	0	$234
24.02 Rules & Regulations	0	0	0	0	0	0
24.03 Forms	47	110	8	118	0	118
24.05 FCC Publications	44	51	4	55	0	55
24.06 Misc. Printing/Repro.	77	57	4	61	0	61

FY 1991 BUDGET REQUEST
ALLOCATION BY EXPENSE ELEMENT
(Dollars in thousands)

EXPENSE ELEMENT	FY 1989	FY 1990	ADJUSTMENTS TO ESTABLISH BASE	BASE	NET PROGRAMMATIC CHANGE	FY 1991 TOTAL REQUEST
24.08 ADP Com. Output Micro.	52	52	3	55	0	55
24.09 Fed. Reg./CFR Printing	528	550	0	550	0	550
OBJECT CLASS 24 TOTAL	$976	$1,039	$34	$1,073	$0	$1,073
25.01 Work Orders	$54	$42	$0	$42	$0	$42
25.02 Field Bldg./Grnd. Main.	37	51	1	52	100	152
25.03 Storage/Care - Vehicles	52	55	2	57	0	57
25.04 Repair of Tech. Equip.	4	65	2	67	0	67
25.05 Repair Off. Equip./Frn.	104	100	8	108	0	108
25.06 Stenographic Services	70	77	0	77	0	77
25.07 Security Investigations	8	39	8	47	0	47
25.08 Health Services	107	121	12	133	0	133
25.09 Training	49	84	9	93	0	93
25.10 Graphic Services	4	3	0	3	0	3
25.11 Arbitration Fees	0	1	0	1	0	1
25.12 ADP Production Support	757	1,077	43	1,120	0	1,120
25.13 Pol. Research Curr. Yr.	0	0	0	0	0	0
25.14 Pol. Research Prior Yr.	0	0	0	0	0	0
25.15 Program Assistance	174	797	0	797	608	1,405
25.16 Org. & Mgmt. Studies	0	0	0	0	0	0
25.17 Official Representation	0	4	0	4	0	4
25.18 Other Services	162	71	7	78	0	78
25.19 ADP Systems Development	0	0	0	0	0	0
25.20 ADP Equip. Maintenance	849	960	39	999	0	999
25.21 ADP Service Contracts	412	1,063	(296)	767	150	917

FY 1991 BUDGET REQUEST
ALLOCATION BY EXPENSE ELEMENT
(Dollars in thousands)

EXPENSE ELEMENT	FY 1989	FY 1990	ADJUSTMENTS TO ESTABLISH BASE	BASE	NET PROGRAMMATIC CHANGE	FY 1991 TOTAL REQUEST
25.22 Security Services	137	140	6	146	0	146
25.23 Fees for Conferences	1	8	0	8	0	8
25.24 Software Fees	229	50	0	50	134	184
OBJECT CLASS 25 TOTAL	$3,210	$4,888	($159)	$4,729	$992	$5,721
26.01 Petr., Oil, Lubricants	$74	$80	$3	$83	$0	$83
26.02 Tech. Supp./Materials	67	73	0	73	0	73
26.03 Comm. Subs./Periodicals	166	197	20	217	0	217
26.04 Dupl. Plant Supplies	156	122	9	131	0	131
26.05 Departmental Supplies	298	292	12	304	0	304
26.06 Field Office Supplies	23	24	1	25	0	25
26.07 ADP Supplies	120	91	3	94	4	98
26.09 In-house Train Supplies	1	1	0	1	0	1
26.11 Lib. Refer. Materials	8	15	0	15	0	15
26.13 Field Oper. Expenses	135	142	0	142	0	142
26.14 Government Pubs.	6	4	0	4	0	4
26.15 Microform Supplies	0	0	0	0	0	0
OBJECT CLASS 26 TOTAL	$1,052	$1,041	$48	$1,089	$4	$1,093
31.01 Technical Equipment	$424	$776	($8)	$768	$376	$1,144
31.05 Off. Equip./Furnishings	81	85	0	85	3400	3485
31.06 Purchase of Vehicles	114	105	0	105	110	215
31.07 ADP Equipment	326	763	(663)	100	732	832
31.08 Other Equipment	20	56	0	56	200	256
31.09 ADP/Off. Auto. Furn.	2	0	0	0	2	2

FY 1991 BUDGET REQUEST
ALLOCATION BY EXPENSE ELEMENT
(Dollars in thousands)

EXPENSE ELEMENT	FY 1989	FY 1990	ADJUSTMENTS TO ESTABLISH BASE	BASE	NET PROGRAMMATIC CHANGE	FY 1991 TOTAL REQUEST
31.10 Doc. Image/Micfm. Equip	0	10	0	10	0	10
31.11 Purch. Telecomm. Equip.	127	32	0	32	0	32
OBJECT CLASS 31 TOTAL	$1,094	$1,827	($671)	$1,156	$4,820	$5,976
32.01 Land	$650	$75	$0	$75	$0	$75
32.02 Buildings	137	92	(52)	40	0	40
32.03 Structures	2	12	0	12	0	12
OBJECT CLASS 32 TOTAL	$789	$179	($52)	$127	$0	$127
42.01 Insur. Claims & Indemn.	$14	$14	$0	$14	$0	$14
OBJECT CLASS 42 TOTAL	$14	$14	$0	$14	$0	$14
COMMISSION TOTAL	$100,860	$107,550	$3,574	$111,124	$6,874	$117,998

SUMMARY TABLES
(Dollars in thousands)

- - The following tables depict the distribution of work effort, personnel compensation and benefits and other obligations for Fiscal Year 1991:

	FY 1989 Actual	FY 1990 Est.	FY 1991 Est.	Change
FTE	FTE	FTE	FTE	FTE
I. Commissioners	24	33	33	--
II. Inspector General	1	4	4	--
III. Mass Media	363	350	360	+10
IV. Common Carrier	308	308	312	+ 4
V. Private Radio	195	195	198	+ 3
VI. Field Operations	388	380	385	+ 5
VII. Engineering & Technology	90	87	91	+ 4
VIII. Support	396	393	395	+ 2
Total	1,765	1,750	1,778	+28
PERSONNEL COMPENSATION	$ 68,572	$ 71,660	$ 75,442	$ + 3,782
PERSONNEL BENEFITS				
Retirement	$ 6,106	$ 6,370	$ 6,732	$ + 362
Life Insurance	118	123	135	+ 12
Social Security	1,213	1,265	1,384	+ 119
Medicare	652	680	700	+ 20
Health Insurance	2,646	2,761	3,302	+ 541
Accident Compensation	109	144	174	+ 30
Moving & Related Expenses	70	40	40	+ --
Cost of Living Allowance	198	207	226	+ 19
Total	$ 11,112	$ 11,590	$ 12,693	$ + 1,103
BENEFITS FOR FORMER PERSONNEL	$ 60	$ 60	$ 60	$ --
OTHER OBLIGATIONS BY OBJECT CLASS				
21 Travel & Trans. of persons	$ 661	$ 993	$ 1,137	$ + 144
22 Transportation of things	160	211	218	+ 7
23 Rents, communications, util.	13,160	14,048	14,444	+ 396
24 Printing	976	1,039	1,073	+ 34
25 Other Services	3,210	4,888	5,721	+ 833
26 Supplies & Materials	1,052	1,041	1,093	+ 52
31 Equipment	1,094	1,827	5,976	+ 4,149
32 Land, buildings, structures	789	179	127	- 52
42 Insur. claims & indemnities	14	14	14	--
Total	$ 21,116	$ 24,240	$ 29,803	$ + 5,563

Summary of Changes
(Dollars in thousands)

Personnel Compensation	$3,782
Personnel Benefits	$1,103
Other Obligations	$5,563

Personnel Changes

Compensation/Benefits	$+ 4,885
o Fixed Cost/Health Benefits/FERS.	565
o Extra paid day in FY 1991.	311
o Merit Pay increase	6
o Annualization of 25% of FY 1990 payraise and 50% of FY 1991 payraise	3,059
o Accident Compensation increase	30
o Funding for FTEs	
Support Activity	
Two FTEs for EBS-related activities.	51
Mass Media Acitivity	
Ten FTEs to support Advanced TV, EEO activities, FM New and Major Change applications.	290
Common Carrier Activity	
Four FTEs to handle formal complaint filings	183

Private Radio Activity	
Three FTEs to support the Special Services Program, Authorization of Service Program and enforcement activities	102
Field Operations Activity	
Five FTEs to support special cases in Atlanta, to provide emergency guidance, to provide ECIB support to equip vehicles and to assist in enforcement activities	132
Engineering and Technology Activity	
Four FTEs for the Frequency Liaison Branch to support frequency assignment coordination activity, for Spectrum Engineering to develop policies and/or regulations regarding ATV systems and for the Authorization and Evaluation Division to develop policies and/or regulations for ATV systems	156

Other Obligations

Travel and Transportation of Persons	**$+ 144**
o Domestic Travel	
Commissioners	
Additional domestic travel	5
Support Activity	
EBS-related travel	6
Mass Media Activity	
EEO audits of cable employment units	10
Common Carrier Activity	
Support for requested three positions for the Accounting and Audits Program	10
Field Operations Activity	
Enhancement for enforcement and public service activities	75
Engineering and Technology Activity	
Provide interaction with telecommunications public and private sector radio users	4

o International Travel	
Support Activity	
Promote and advance U.S. telecommunications interest	25
Engineering and Technology Activity	
Promote and advance U.S. telecommunications interest	9
Transportation of Things	$+ 7
o Rental of Non-Passenger Vehicles	
Field Operations Activity, fixed cost	5
Support Activity, fixed cost	2
Rents, Communications, Utilities	$+ 396
o Rental of Office Space	
Support Activity, fixed cost	342
Field Operations Activity, fixed cost	2
o Rental of Duplicating Equipment	
Support Activity, fixed cost	12
Field Operations Activity, fixed cost	3
o Departmental Telephone Service	
Support Activity, fixed cost	21
o Field Telephone Service	
Support Activity, fixed cost	1
Field Operations Activity, fixed cost	10
o Utilities	
Field Operations Activity, fixed cost	5
Printing	$+ 34
o FCC Records/Daily Releases, Forms, Publications, Misc. Printing, ADP/IRM Microform	
Support Activity, fixed cost	34

Other Services	$+ 833
o Field Buildings and Grounds Maintenance	
Field Operations Activity	
Provide building and ground maintenance for critical projects	100
Engineering and Technology Activity, fixed cost	1
o Repair and Storage of Vehicles	
Field Operations Activity, fixed cost	2
o Repairs of Technical Equipment	
Field Operations Activity, fixed cost	2
o Repairs of Office Equipment and Furnishings	
Support Activity, fixed cost	7
Field Operations Activity, fixed cost	1
o Security Investigations	
Support Activity, fixed cost	8
o Health Services	
Support Activity, fixed cost	12
o Training	
Support Activity, fixed cost	9
o ADP/IRM Production Support	
Support Activity, fixed cost	43
o Contractual Program Assistance	
Inspector General Activity	
Provide funding for program assistance	50
Support Activity	
Funding for cross-servicing with NFC	208
Interagency agreement with the National Communications System (NCS)	50
Support development of HDTV studies/analysis	300

o Miscellaneous Services	
Field Operations Activity, fixed cost	7
o ADP/IRM Equipment Maintenance	
Support Activity, fixed cost	39
o ADP/IRM Service Contracts Maintenance	
Support Activity	
Fixed cost	54
Funds to determine the benefits of MMB's migration	150
One-time cost decrease associated with a study to assist the Commission in the selection of a Honeywell mainframe replacement	-350
o Security Service	
Support Activity, fixed cost	6
o ADP/IRM Software	
Support Activity	
Replacement software to support routine requirements of agency personnel	18
Mass Media Activity	
Software for two ATV-compatible PCs for special computing applications	4
Common Carrier Activity	
Software associated with engineering analyses for satellite coverage patterns and requested PCs to backup hard disks	58
Private Radio Activity	
Software for requested PC to be shared by the Bureau Chief and the Special Services Division and to provide technical support for the Special Services Branch	5
Engineering and Technology Activity	
Software to improve analytical capabilities of engineers involved in spectrum analysis and terrain-dependent propagation modeling, to support the requested Microvax computer, for the Treaty Branch to establish PC compatibility for international conference work, for the laboratory to improve automated equipment testing procedures and spectrum utilization analysis and for the requested PC laptop workstation to improve the laboratory's open-air testing program	49

Supplies and Materials	$+ 52
o Petroleum/Oil/Lubricants	
Field Operations Activity, fixed cost	3
o Commercial Subscriptions	
Support Activity, fixed cost	13
Engineering & Technology Activity, fixed cost	7
o Duplicating Plant Supplies	
Support Activity, fixed cost, GPO requirement	9
o Departmental Supplies	
Support Activity, fixed cost	12
o Field Office Supplies	
Field Operations Activity, fixed cost	1
o ADP Supplies	
Support Activity, fixed cost	3
Common Carrier Activity, associated with purchase of PCs/Bernoulli boxes	4
Equipment	$+ 4,149
o Technical Equipment	
FY 1990, one-time cost decrease (Laurel Lab)	-8
Field Operations Activity	
OMB-approved, 10-year equipment replacement plan	326
Engineering and Technology Activity	
ATV studies at the laboratory (Laurel, Md) and for the equipment replacement plan	50
o Office Equipment/Furnishings	
Support Activity	
Expenses associated with the relocation of the Commission's headquarters	3,400

o Purchase of Vehicles	
Field Operations Activity	
MADF and four-wheel drive vehicles.	110
o ADP Equipment	
FY 1990, one-time cost decrease.	-663
Support Activity	
Additional ADP equipment.	287
To replace existing departmental ADP equipment.	52
Mass Media Activity	
Two ATV-compatible 80286 CPU PCs.	10
Common Carrier Activity	
Mini-vax computer for satellite coordinates work.	110
PCs and Bernoulli boxes	56
Private Radio Activity	
PC for the Special Services Division.	4
Computer workstation for the Special Services Branch.	12
Engineering & Technology Activity	
PCs (8) for international conference work (Treaty Branch), spectrum analysis/ terrain-dependent propagation modeling and the laboratory's open-air testing program	86
Micro-vax computer for HDTV spectrum analyses	115
o Other Equipment	
Support Activity	
Antennae purchase associated with the Commission's relocation	200
o ADP/Office Automation Furniture	
Common Carrier Activity	
Support furniture for new ADP equipment in this request	2
Land, Buildings and Structures	$- 52
o Buildings	
FY 1990 one-time cost decrease.	-52
Insurance Claims and Indemnities	No Change

ORGANIZATION TABLE
(Dollars in thousands)

PERSONNEL COMPENSATION	FY 1989 FTE	FY 1989 Dollars	FY 1990 FTE	FY 1990 Dollars	FY 1991 FTE	FY 1991 Dollars	Change FTE	Change Dollars
Office of the Commissioners....	24	$1,288	33	$1,900	33	$1,981	0	$81
Office of Inspector General....	1	$65	4	$78	4	$201	0	$123
Office of Int'l Communications.	0	$0	7	$174	7	$401	0	$227
Office of the Managing Director								
Immediate Office................	39	$1,830	33	$1,601	35	$1,738	2	$137
Financial Management Div.......	41	1,104	44	1,220	44	1,250	0	30
Info. Resources Plan. Div......	14	512	16	604	16	618	0	14
Computer Applications Div......	38	1,537	38	1,582	38	1,619	0	37
Information Processing Div.....	18	756	18	779	18	797	0	18
Internal Control & Secur. Div..	6	201	4	138	4	141	0	3
The Secretary..................	26	535	26	550	26	564	0	14
Human Resources Management.....	27	1,013	28	1,080	28	1,107	0	27
Operations Support Div.........	56	1,529	49	1,376	49	1,410	0	34
Office Automation Div..........	13	518	16	656	16	673	0	17
Total Managing Director...	278	$9,535	272	$9,586	274	$9,917	2	$331
Office of the General Counsel								
Immediate Office...............	7	$343	7	$375	7	$392	0	$17
Administrative Law Div.........	17	890	17	973	17	1,018	0	45
Litigation Div.................	15	913	15	999	15	1,045	0	46
Adjudication Div...............	9	526	9	575	9	602	0	27
Total General Counsel.....	48	$2,672	48	$2,922	48	$3,057	0	$135
Private Radio Bureau								
Office of Bureau Chief.........	11	$454	12	$550	12	$568	0	$18
Land Mobile & Microwave Div....	28	1,318	25	1,306	26	1,403	1	97
Special Services Div...........	22	1,070	22	1,188	23	1,283	1	95
Licensing Div..................	134	3,151	136	3,552	137	3,696	1	144
Total Private Radio.......	195	$5,993	195	$6,596	198	$6,950	3	$354
Office of Plans & Policy.......	12	$752	13	$857	13	$910	0	$53

ORGANIZATION TABLE
(Dollars in thousands)

PERSONNEL COMPENSATION	FY 1989		FY 1990		FY 1991		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars
Office of Public Affairs								
Immediate Office................	5	$203	5	$253	5	$265	0	$12
News Media Div..................	8	234	7	255	7	268	0	13
Consumer Asst. & Small Business	7	287	7	356	7	373	0	17
Total Public Affairs......	20	$724	19	$864	19	$906	0	$42
Office of Legislative Affairs..	8	$388	8	$426	8	$453	0	$27
Mass Media Bureau								
Office of Bureau Chief.........	21	$889	23	$1,003	23	$1,025	0	$22
Audio Services Div.............	138	4,746	130	4,629	135	4,909	5	280
Enforcement Div................	57	2,278	54	2,234	56	2,365	2	131
Policy and Rules Div...........	62	2,900	57	2,761	60	2,967	3	206
Video Services Div.............	85	3.107	86	3,256	86	3,324	0	68
Total Mass Media..........	363	$13,920	350	$13,883	360	$14,590	10	$707
Review Board....................	10	$522	8	$456	8	$477	0	$21
Administrative Law Judges......	20	$1,028	18	$1,011	18	$1,058	0	$47
Office of Engineering & Tech.								
Office of Chief Engineer.......	11	$555	10	$547	10	$563	0	$16
Spectrum Engineering...........	37	1,712	34	1,707	37	1,911	3	204
Auth. & Evaluation.............	42	1,919	43	2,132	44	2,245	1	113
Total Engineering & Tech..	90	$4,186	87	$4,386	91	$4,719	4	$333
Common Carrier Bureau								
Office of Bureau Chief.........	21	$891	19	$844	19	$872	0	$28
Accounting & Audits Div........	65	3,056	61	2,976	61	3,078	0	102
Industry Analysis Div..........	13	700	13	727	13	752	0	25
Policy & Program Plan. Div.....	18	1,097	17	1,074	17	1,111	0	37
Int'l Facilities Div...........	13	595	12	570	12	590	0	20
International Policy Div.......	8	439	9	513	9	531	0	18
Enforcement Div................	32	1,130	34	1,245	38	1,440	4	195
Domestic Facilities Div........	50	2,197	49	2,234	49	2,311	0	77
Mobile Services Div............	54	2,082	57	2,280	57	2,358	0	78
Tariff Div.....................	34	1,456	37	1,645	37	1,701	0	56
Total Common Carrier......	308	$13,643	308	$14,108	312	$14,744	4	$636

ORGANIZATION TABLE
(Dollars in thousands)

PERSONNEL COMPENSATION	FY 1989		FY 1990		FY 1991		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars
Field Operations Bureau								
Office of Bureau Chief..........	16	$739	17	$836	17	$861	0	$25
Engineering Div.................	14	585	11	485	13	593	2	108
Public Services Div.............	13	476	14	542	14	559	0	17
Enforcement Div.................	25	1,082	25	1,145	25	1,182	0	37
Atlanta Region..................	61	2,156	60	2,287	62	2,435	2	148
Boston Region...................	58	1,990	57	2,071	57	2,137	0	66
Chicago Region..................	41	1,364	40	1,408	40	1,453	0	45
Kansas City Region..............	62	2,189	59	2,205	60	2,314	1	109
Seattle Region..................	50	1,705	47	1,697	47	1,751	0	54
San Francisco Region............	48	1,575	50	1,737	50	1,793	0	56
Total Field Operations....	388	$13,861	380	$14,413	385	$15,078	5	$665
Commission Totals								
Total Pers. Compensation..	1,765	68,572	1,750	71,660	1,778	75,442	28	3,782
Total Pers. Benefits......		11,112		11,390		12,693		1,303
Total Benefits for Former Personnel..............		68		60		60		0
Total Other Obligations...		21,116		24,240		29,803		5,563
Total..................		$100,868		$107,350		$117,998		$10,648

ACTIVITY TABLE
(Dollars in thousands)

	FY 1989		FY 1990		FY 1991		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars
I. COMMISSIONERS								
A. Total Pers. Compensation	24	$1,288	33	$1,900	33	$1,981	--	$81
B. Total Personnel Benefits		228		328		355		27
C. Total Benefits for Former Personnel		1		2		2		0
D. Total Other Obligations		309		573		581		8
Total Obligations		$1,826		$2,803		$2,919		$116
II. INSPECTOR GENERAL								
A. Total Pers. Compensation	1	$65	4	$78	4	$201	--	$123
B. Total Personnel Benefits		4		13		34		21
C. Total Benefits for Former Personnel		1		0		0		0
D. Total Other Obligations		42		137		187		50
Total Obligations		$112		$228		$422		$194
III. MASS MEDIA								
1. Policy and Rulemaking	60	$2,301	56	$2,221	59	$2,431	3	$210
2. Authorization of Service	232	8,897	226	8,964	231	9,334	5	370
3. Enforcement and Hearings	59	2,262	57	2,262	59	2,387	2	125
4. International	12	460	11	436	11	438	--	2
A. Total Pers. Compensation	363	$13,920	350	$13,883	360	$14,590	10	$707
B. Total Personnel Benefits		2,218		2,190		2,413		223
C. Total Benefits for Former Personnel		12		12		12		0
D. Total Other Obligations		4,650		5,001		4,825		(176)
Total Obligations		$20,800		$21,086		$21,840		$754

ACTIVITY TABLE
(Dollars in thousands)

	FY 1989		FY 1990		FY 1991		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars
IV. COMMON CARRIER								
1. Accounting and Audits	65	$2,879	61	$2,794	61	$2,852	--	$58
2. Rate and Service Reg	110	4,873	114	5,222	118	5,673	4	451
3. Auth. of Service & Fac	123	5,448	123	5,636	123	5,751	--	117
4. International	10	443	10	458	10	468	--	10
A. Total Pers. Compensation	308	$13,643	308	$14,108	312	$14,744	4	$636
B. Total Personnel Benefits		2,199		2,186		2,394		208
C. Total Benefits for Former Personnel		12		12		12		0
D. Total Other Obligations		3,694		3,887		4,127		240
Total Obligations		$19,548		$20,193		$21,277		$1,084
V. PRIVATE RADIO								
1. Land Mobile Services	30	$922	28	$947	29	$1,034	1	$87
2. Authorization of Service	141	4,333	143	4,837	144	5,020	1	183
3. Special Services	24	738	24	812	25	896	1	84
A. Total Pers. Compensation	195	$5,993	195	$6,596	198	$6,950	3	$354
B. Total Personnel Benefits		1,057		1,125		1,232		107
C. Total Benefits for Former Personnel		5		6		6		0
D. Total Other Obligations		1,737		2,018		2,039		21
Total Obligations		$8,792		$9,745		$10,227		$482
VI. FIELD OPERATIONS								
1. Monitoring	127	$4,537	126	$4,778	126	$4,897	--	$119
2. Inspections/Invest	104	3,715	105	3,983	107	4,205	2	222
3. Public Service	108	3,858	105	3,983	105	4,081	--	98
4. Engineering	49	1,751	44	1,669	47	1,895	3	226
A. Total Pers. Compensation	388	$13,861	380	$14,413	385	$15,078	5	$665
B. Total Personnel Benefits		2,372		2,597		2,824		227
C. Total Benefits for Former Personnel		12		12		12		0
D. Total Other Obligations		4,398		4,307		4,537		230
Total Obligations		$20,643		$21,329		$22,451		$1,122

ACTIVITY TABLE
(Dollars in thousands)

	FY 1989		FY 1990		FY 1991		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars
VII. ENGINEERING AND TECHNOLOGY								
1. Technical Analysis	13	$605	12	$605	14	$772	2	$167
2. Internat. Telecom. Pol.	11	512	10	504	10	504	--	0
3. Nat'l Spectrum Mgmt	21	977	20	1,008	22	1,174	2	166
4. Equip. Stds. & Approval	43	2,000	43	2,168	43	2,168	--	0
5. Technology Planning	2	92	2	101	2	101	--	0
A. Total Pers. Compensation	90	$4,186	87	$4,386	91	$4,719	4	$333
B. Total Personnel Benefits		578		616		689		75
C. Total Benefits for Former Personnel		4		4		4		0
D. Total Other Obligations		1,073		1,435		1,996		561
Total Obligations		$5,841		$6,439		$7,408		$969
VIII. SUPPORT								
1. Legal Service/Adj.	78	$4,222	74	$4,389	74	$4,592	--	$203
2. Internat'l Communications	0	0	7	857	7	910	--	53
3. Plans and Policy	12	752	13	864	13	906	--	42
4. Office of Public Affairs	20	719	19	426	19	453	--	27
5. Office of Legis. Affairs	8	381	8	174	8	401	--	227
6. Financial Management	48	1,647	50	1,762	50	1,810	--	48
7. Management Services	26	825	23	811	25	905	2	94
8. Administrative Services	89	3,055	80	2,819	80	2,895	--	76
9. Personnel Management	38	1,305	36	1,269	36	1,303	--	34
10. Information Resources	79	2,710	83	2,925	83	3,004	--	79
A. Total Pers. Compensation	396	$15,616	393	$16,296	395	$17,179	2	$883
B. Total Personnel Benefits		2,456		2,537		2,752		215
C. Total Benefits for Former Personnel		13		12		12		0
D. Total Other Obligations		5,213		6,882		11,511		4,629
Total Obligations		$23,298		$25,727		$31,454		$5,727

ACTIVITY TABLE
(Dollars in thousands)

	FY 1989		FY 1990		FY 1991		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars
COMMISSION TOTALS								
A. Total Pers. Compensation	1,765	$68,572	1,750	$71,660	1,778	$75,442	28	$3,782
B. Total Personnel Benefits		11,112		11,590		12,693		1,103
C. Total Benefits for Former Personnel		60		60		60		0
D. Total Other Obligations		21,116		24,240		29,803		5,563
Total Obligations		$100,860		$107,550		$117,998		$10,448

I. COMMISSIONERS

Analysis of Resources
(Dollars in Thousands)

Resource Requirements:	FY 1989 Actual	FY 1990 Estimate	FY 1991 Adj. to Estab. Base	FY 1991 Base	FY 1991 Programmatic Increase	FY 1991 Request
Budget Authority	$1,826	$2,803	$+111	$2,914	$+ 5	$2,919
Outlays	$1,819	$2,849	--	--	--	$2,911
FTE employment:	24	33	--	33	--	33

Activity Description: This Activity includes the top adjudicatory, policy making, planning and decision-making for the Commission's basic functions, including participation in telecommunications policy. This decision-making is executed through the agency's five appointed Commissioners.

FY 1989 Objectives/Accomplishment:

Objective: To promote, wherever possible, a competitive marketplace for the development and use of communications facilities and services.

Accomplishment: The Commission completed the main phase of its investigation of strategic pricing of special access issues under investigation in CC Docket 85-166. The Commission began its investigation in response to the 1985 annual access tariff filings of the local exchange carriers. In those filings, several exchange carriers proposed rates for some services within the special access category which were designed to not only recover the costs of providing these services but to achieve certain marketplace objectives as well. The Commission adopted six specific guidelines intended to ensure that carriers exercise special access pricing flexibility in a manner which produces just and reasonable subelement rates for special access services.

Effective April 1, 1989, the Commission requires local exchange carriers (LECs) and the National Exchange Carrier Association (NECA) common line pool to set their originating carrier common line (CCL) rates at one cent, and set their terminating rates to recover the remaining interstate revenue requirement. The Commission concluded that a balanced approach that protects against originating rates reaching too high a level for any individual company, yet minimizes the differentials between originating and terminating CCL charges, would be best for the new pooling environment.

The Commission adopted new rules permitting limited short-spacing of FM broadcast station assignments by using directional antennas. The new rules will allow applicants for commercial FM facilities to request the authorization of a transmitter site that would ordinarily be short-spaced to the facilities of other co-channel or adjacent channel stations, provided these stations are protected from interference.

The FCC released its latest semiannual report on Trends in Telephone Service, reflecting information from the consumers' standpoint. The Report, which is a summary of information collected by the Commission in much more detailed and technical reports, includes information on telephone subscribership levels, costs, equal access, long-distance and lifeline programs. Among the findings are: 85 million U.S. households have telephone service, the highest number ever; 88 percent of the nation's lines have now been converted to equal access; in October 1988, the national average for flat rate residential service was $16.59 monthly, including taxes and subscriber line charges; between January 1984 and January 1989, AT&T's per minute charges for interstate calls have been reduced between 35 and 40 percent for the average residential customer; and by the end of January 1989, 20 states and the District of Columbia had been certified to provide both lifeline service and connection assistance under the Link-Up America program. Another 22 states had established one, but not both, of these programs.

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The Commission adopted a new system of regulating AT&T known as "price caps," which sets maximum limits on the prices AT&T may charge for its telecommunications services. The new system guarantees consumers lower rates that they could expect if the current regulatory system were continued, approximately $900 million in savings over the next four years, with $700 million of that amount flowing to residential consumers. AT&T will have the opportunity to increase its earnings if it cuts costs and achieves greater levels of efficiency than it has achieved in the past. The Commission also adopted a finding that the application of price cap regulation to local telephone companies (LECs) is in the public interest. The Commission proposed a specific plan for LEC price cap regulation and asked for further comment on its proposal, which is scheduled for implementation on July 1, 1990.

Objective: Provide a regulatory framework which permits markets for communications services to function effectively, while eliminating regulations which are unnecessary or inimical to the public interest.

Accomplishment: The Commission eliminated FCC Form 901, the monthly form required from large telephone companies, including AT&T. When the new Uniform System of Accounts became effective in January 1988, the existing format of the telephone company reports became obsolete. However, the new system, ARMIS, which requires automated USOA reports from the local exchange carriers, provides an alternate source for most of the information previously filed on the Form 901. A temporary waiver of the monthly reporting requirement was issued by the Common Carrier Bureau for 1988 reports only.

The Commission relaxed both technical and service restrictions in the cellular service, giving cellular radio carriers the option of introducing advanced cellular technology and of providing auxiliary mobile common carrier services in the radio spectrum allocated for cellular service. Those operators choosing to implement advanced technology or auxiliary services will be responsible for ensuring that conventional service is available to satisfy both local and roamer conventional requirements.

The Commission determined that it would not be in the public interest to deregulate analog group and supergroup NCTE, noting that deregulation of this small amount of largely obsolete equipment would entail lengthy and costly procedures to develop technical interface standards and protection criteria. The Commission pointed out that FCC equipment registration rules, which apply to deregulated equipment interconnected to the network, require such standards and criteria to protect the network from harm. In this case, it said, the public interest would not be served by pursuing such a course because the demand for this equipment is small and diminishing.

The Commission revised its intermediate frequency (IF) minimum distance separation requirements for all classes of FM broadcast stations. The adjusted distances were calculated to provide a uniform level of receiver protection from IF interference. Previously, the rules resulted in different protection levels for different classes of FM stations. The Commission concluded that there was no technical justification for maintaining a number of different protection levels all applying to the same potential interference phenomenon.

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The Commission repealed the "two-year rule" which previously limited the terms of affiliation agreements between television networks and stations to two years. Both networks and stations should benefit from elimination of the rule. Longer contracts may permit a more solid financial base for networks, making it easier to attract capital, to program, and to expand. Affilitates could likewise benefit from longer term agreements, in that a long-term guarantee of a supply of programming might make it easier for them to attract advertisers and to obtain financing.

Objective: Promote efficiency in the allocation, licensing and use of the electromagnetic spectrum.

Accomplishment: The Commission proposed amending its Frequency Allocation and Aviation Services rules to permit private sector entities to use six frequencies in the 2310-2390 MHz band for telemetry communications by fully operational space launch vehicles. Currently, these frequencies are only available for flight test telemetry. This will enhance the U.S. private sector's ability to compete in the world market to offer launch vehicles for launching of satellites.

The Commission adopted coordination procedures, licensing requirements and technical standards for shared federal government/non-government fixed service use of the 932-935 and 941-944 MHz bands. The Commission reserved five of the six megahertz for point-to-point use, and one megahertz for point-to-multipoint (multiple address) use. The technical standards for both government and non-government users are similar to those currently in use in non-government private fixed bands. Government and non-government entities will have co-equal access to the new fixed bands as proposed.

The Commission granted American Mobile Data Communications, Inc. an extended construction period to build a nationwide two-way digital communications network using frequencies in the 900 MHz band allocated to the Specialized Mobile Radio Service (SMR). This network will make nationwide mobile data service available for the first time to a wide and diverse customer base.

The Commission authorized Public Mobile Service (PMS) licensees, typically paging and two-way services, to increase the effective radiated power (ERP) when their interference contours do not exceed the existing interference contours of co-channel stations operating under the control of the same licensee. These changes will enhance the efficiency of PMS operations because fewer transmitters will be needed to cover the same geographical area, building penetration will be increased and the system's ability to overcome man-made noise will be improved.

The Commission denied a petition by aviation interests to conform the U.S. domestic allocations for mobile satellite services at L-band to those adopted at the 1987 World Administrative Radio Conference (WARC) for the Mobile Services. The Commission noted that the U.S. took a reservation to the WARC allocations for mobile satellite services. The Commission found that the U.S. domestic allocation better serves the public interest because it provides a greater amount of primary spectrum for generic mobile satellite services, including land services, and at the same time gave aeronautical safety services access to a greater amount of spectrum when needed.

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Objective: Protect and promote the interests of the American public in international communications.

Accomplishment: The FCC issued a report entitled "Trends in the International Telecommunications Industry, 1975-1987" that is a compendium of financial and operating statistics for the international communications industry. The report traces the development of international communications industry for the period 1975-1987 by presenting data on a wide range of key indicators that measure the business activity of the firms in the industry and its major sectors. The report summarizes international traffic levels and revenues, net investment, common carrier revenues by service category, market shares, rates for major service classifications, and earnings ratios.

The Commission reaffirmed its decision to establish reporting requirements for the provision of domestic, interstate, and long-distance services by carriers owned by foreign telecommunications entities. The Commission also determined that the annual core equipment reporting requirement should be abolished and that there is no compelling regulatory need to gather this information at the present time. The Commission concluded that the common carrier reporting requirements established in the Report and Order are fully consistent with the principle of national treatment and any national treatment obligations of the United States.

On May 24, 1988, the Commission amended its rules to require that amateur stations operated by aliens under reciprocal permits, transmit the United States letter-numeral designating the station location first, followed by the call sign issued by the alien's country.

The Commission authorized Comsat to participate in INMARSAT's plan to procure a fourth INMARSAT Second Generation spacecraft. Comsat indicated that the procurement was essential because of the growing maritime traffic demand, the inadequacy of existing satellites to meet future growth, operational uncertainties, and the financial incentive afforded by prompt actions. The Commission found that INMARSAT's plans to introduce a Second Generation satellite in each of the three ocean regions by 1991 to be an operationally sound approach for meeting future maritime traffic demands and maintaining acceptable grade-of-service at a reasonable cost.

Objective: Provide service to the public in the most efficient, expeditious manner possible.

Accomplishment: In an effort to encourage greater and more effective use of radio by allowing applicants to immediately fulfill their communications needs, the Commission has proposed amending its rules by expanding its temporary licensing procedures for "add-on" users of community repeaters, to applicants for new Private Land Mobile Radio (PLMR) stations operating below 470 MHz.

In accordance with the Computer Security Act of 1987, Public Law (100-235), the Commission successfully completed the three specific tasks on or before established target dates. On July 8, 1989, the Commission completed a review of all computer data bases and determined that 235 data bases contain sensitive information. On September 8, 1988, the Commission developed a computer security training and awareness program. The Commission developed, published and delivered the formal FCC Computer Security Plan to the National Institute for Standards and Technology (NIST) by January 8, 1989.

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The Commission proposed implementing a random lottery procedure (random selection) for new AM, FM and television stations in lieu of the present comparative hearing process. Applications would be screened for completeness prior to the lottery. After a tentative selectee had been determined, there would be an opportunity for the filing of petitions to deny.

Objective: Eliminate government action which infringes upon freedom of speech and the press.

Accomplishment: In response to Public Law 100-459, signed by President Reagan on October 1, 1988, the Commission adopted a new rule pursuant to which it will enforce the prohibitions against broadcast obscenity and indecency on a 24-hour-per-day basis. The Commission noted that, in enforcing this rule, it will continue to apply its generic definition of indecency, which has been upheld by the courts. Under this definition, broadcast indecency is language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs.

The United States Court of Appeals for the District of Columbia Circuit upheld the FCC's August 4, 1987 decision to eliminate the fairness doctrine. Affirming the Commission's findings that the doctrine "chilled" free speech and was unnecessary to produce diversity of viewpoints in broadcasting, the Court said that the Commission had acted reasonably when it concluded to discontinue enforcement of the doctrine. The fairness doctrine, first explicitly adopted by the FCC in 1949, imposed a two-fold obligation on broadcast licensees. Licensees were required (1) to provide coverage of vitally important controversial issues of interest in their community, and (2) to afford a reasonable opportunity for the presentation of contrasting viewpoints on any controversial issue of public importance covered by the licensee.

FY 1990/1991 Activity Objectives

1. Encourage the development of a competitive, innovative and excellent American communications system.

2. Provide effective and adaptive regulation for communications, while eliminating regulations which are unnecessary or inimical to the public interest.

3. Promote efficiency and innovation in the allocation, licensing and use of the electromagnetic spectrum.

4. Promote the vital interests of the American people in international communications and competitiveness.

5. Provide excellent service to the public in the most efficient, uncomplicated, timely and courteous manner possible.

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Justification:

An increase of **$5,000 is requested for additional domestic travel.** The additional funds will be used to allow the Commissioners and their staff to attend various conferences and meetings, improve communications between the Commission and the public and promote a competitive marketplace for the development and use of communications facilities and services.

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II. INSPECTOR GENERAL

Analysis of Resources
(Dollars in Thousands)

Resource Requirements:	FY 1989 Actual	FY 1990 Estimate	FY 1991 Adj. to Estab. Base	FY 1991 Base	FY 1991 Programmatic Increase	FY 1991 Request
Budget Authority	$ 112	$ 228	$+ 144	$ 372	$+ 50	$ 422
Outlays	$ 98	$ 227	--	--	--	$ 411
FTE employment:	1	4	--	4	--	4

Activity Description: The Inspector General Activity plans, organizes, implements and administers audits and investigations to discover and cure instances of waste, fraud and mismanagement. In addition, this Activity investigates reported instances of misconduct, and makes semiannual and ad hoc reports to the Chairman, Congress or other law enforcement agencies as necessary.

FY 1989 Objectives:

Conduct, supervise and coordinate audits and investigations relating to the programs and operations of the FCC.

Review existing and proposed legislation and regulations relating to programs and operations of the FCC and make recommendations to the Congress in the IG's semiannual reports concerning their impact on the economy and efficiency of program administration or the prevention and detection of fraud and abuse.

Recommend policies for, and conduct, supervise or coordinate relationships between the FCC and other Federal, State and local government entities as well as nongovernmental entities with respect to the purposes set out in the Act.

Keep the head of the agency and Congress fully informed by means of reports concerning fraud and other serious deficiencies and recommend necessary corrective actions and report on the progress in implementing these actions.

Accomplishment: The Office of the Inspector General was established in April of 1989 pursuant to the requirements of the Inspector General Amendments Act of 1989. Office activities have included office initiation, staffing and programmatic organization. Audit, investigation, legislation and regulation review, interagency and intergovernment liaison functions, and all reporting requirements have all been fully accomplished according to the guidance of the enabling legislation and agency procedures.

FY 1990/FY 1991 Activity Objectives

1. Provide policy direction for and conduct, supervise and coordinate audits and investigations relating to the programs and operations of the Federal Communications Commission.

2. Review existing and proposed legislation and regulations relating to programs and operations of the Commission and make recommendations in its required semiannual reports to Congress concerning the impact of such legislation or regulations on the economy and efficiency in the administration of these programs and operations, or the prevention and detection of fraud and abuse in such programs and operations.

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3. Recommend policies and conduct or coordinate other activities to promote economy and efficiency in the administration of Commission programs or detect and prevent fraud and abuse in Commission activities. Coordinate with other governmental agencies and nongovernmental entities on these matters.

4. Keep the Chairman and the Congress fully and currently informed concerning fraud and other serious problems, abuses, deficiencies relating to the administration of Commission programs and operations; recommend corrective action and report on the progress made in implementing such corrective action. In addition to providing the Chairman with the results of completed audits and inspections, the Inspector General shall prepare statutorily required reports, identified as such, to include: semiannual reports summarizing activities of the office during the preceding six-month period (due to the Chairman by April 30 and October 31); special reports specifically identifying any serious or flagrant problems, abuses or deficiencies (due to the Chairman immediately upon discovery of these matters by the Inspector General).

Justification:

$50,000 is requested for contractual program assistance to allow the Office of the Inspector General to meet the requirements of the 1988 Act without the immediate addition of extra staff by enabling the office to contract for audit and investigative services. Such outside contracts will not only be cost effective but will also enable the IG to obtain specific needed expertise on an as needed basis.

III. MASS MEDIA ACTIVITY

Analysis of Resources
(Dollars in Thousands)

Resource Requirements:	FY 1989 Actual	FY 1990 Estimate	FY 1991 Adj. to Estab. Base	FY 1991 Base	FY 1991 Programmatic Increase	FY 1991 Request
Budget Authority	$20,800	$21,086	$+ 440	$21,526	$+ 314	$21,840
Outlays	$20,535	$22,255	--	--	--	$21,796
FTE employment:	363	350	--	350	+10	360
Personnel by Program:	FTE	FTE	FTE	FTE	FTE	FTE
Policy & Rulemaking	60	56	--	56	+ 3	59
Authorization of Service	232	226	--	226	+ 5	231
Enforcement & Hearings	59	57	--	57	+ 2	59
International	12	11	--	11	--	11
Total	363	350	--	350	+10	360

Activity Description: The Mass Media Activity licenses, regulates and develops mass media services. These services include both audio and video services in traditional broadcasting, cable television and emerging television delivery systems. The four program areas of this Activity are policy and rulemaking, authorization of service, enforcement and international.

FY 1989 Objectives/Accomplishments

Objective: Plan and develop policies and rules that foster efficient use of the spectrum and encourage creation of opportunities for new or improved service in order to provide for diversity of independent voices and competition. Evaluate the policies and rules relating to the mass media industry to determine whether they are consistent with the goals of the Mass Media Activity.

Accomplishment: During FY 1989, the Activity submitted a number of agenda items to the Commission dealing with issues designed to further the efficient use of the spectrum, to provide new or improved service to the public and to evaluate the policies and rules relating to the mass media industry. These items included:

(1) "Duopoly" Rules. The Commission released a First Report and Order relaxing the radio "duopoly" rules so that there may be a greater degree of contour overlap between commonly owned commercial radio stations in the same broadcast service. In particular, the revised rule now prohibits the common ownership of two or more commercial AM or FM stations in the same service if their 5 mV/m or 3.16 mV/m contours, respectively, overlap.

(2) Radio-TV Cross-Ownership Rules. The Commission released a Second Report and Order retaining its prohibition on the common ownership of commercial radio and television stations in the same market but establishing a more relaxed standard for granting waivers of the rule. Specifically, the Commission indicated that it will look favorably upon waiver requests (1) in the top 25 television markets where there would be 30 separate broadcast licensees after any combination; or (2) in situations involving "failed" stations.

(3) The Commission adopted a Notice of Inquiry in response to a remand of the record in Action for Children's Television v. FCC to solicit comment on the validity of a 24-hour ban on the broadcast of indecent material.

(4) Cable Notice. The Commission adopted a Notice of Inquiry as a preliminary step toward the preparation of a comprehensive study of the cable industry mandated by the Cable Communications Policy Act of 1984, and due to Congress by October 1990. The Notice is intended to develop a factual record regarding rates charged for service and the state of competition in the video marketplace under the Cable Act that will be useful in determining the course of further regulatory or legislative action.

Other Accomplishments that were adopted include: Policy Statement eliminating Cross-Interest for consulting positions, advertising agency relationships and time brokerage agreements; Report and Order modifying FCC Form 301 proposing requirement of additional information to expedite processing of applications; Notice of Proposed Rule Making to select new broadcast applications by random lottery; and Notice of Inquiry and Notice of Proposed Rule Making to determine feasibility of imposing syndicated exclusivity rules with respect to satellite-delivered video programming to home satellite dish (HSD) owners.

Objective: Expeditiously process applications and submissions relating to permits to construct new audio and video stations, operating licenses, renewal and assignment and transfer of such authorizations in the AM, FM, TV, translator, LPTV, auxiliary and other related services, and notifications and petitions for cable television and related services.

Accomplishment: Applications and submissions to construct, operate, renew, assign and transfer audio and video stations and cable television and related services were processed expeditiously. For workload statistics by service, see Workload and Performance Summary Tables.

Objective: Within existing parameters, develop a full record to determine: (a) whether applicants are qualified; (b) among multiple applicants, which one is most deserving to receive the contested license; and (c) whether an existing licensee deserves to remain as such. Dispose of adjudicatory cases in the most expeditious manner possible.

Accomplishment: Full hearing records were developed in an expeditious manner. For example, a recent FY 1989 hearing calendar disclosed that there were 178 hearing proceedings, a decrease from 238 in FY 1988. The average age of the cases was 22 months, up from 14 months in FY 1988. The increase in the average age of cases is a result of a high percentage of settlements (70%) among cases designated during the past year and the fact that only 148 new cases were designated. Last year 233 cases were designated. Thus, a large percentage of "young" cases were settled and terminated.

Objective: Examine all political broadcasting complaints. Conduct in-depth investigations of alleged substantial violations. Answer requests for ruling as time permits.

Accomplishment: All 5,321 political broadcasting complaints were examined. Seven in-depth station inquiries were conducted because of alleged substantial violations; 139 staff rulings were issued.

Objective: Conduct on-site investigations of allegations of flagrant violations of Commission rules and policies. Conduct appropriate investigations into other serious violations. Evaluate and process the most serious violation notices referred by the Field Operations Activity.

Accomplishment: No on-site investigations took place; 196 other matters resulted in paper/telephone investigations. The subjects investigated included: broadcasts of indecent material, unauthorized transfers of control, abandonment or abdication of control of stations, sponsorship identification, stations silent without authority, improperly conducted contests, unauthorized relocation of main studio, blanketing interference and the improper commercialization of non-commercial stations.

Objective: Process Annual Employment Reports (FCC Form 395), review the EEO performance of the broadcast industry and process petitions to deny with EEO elements in a timely manner.

Accomplishment: The 1988 Annual Trend Report, a compilation of 8,516 FCC Forms 395, was published during the second quarter of FY 1989, well in advance of the target date. Also, petitions to deny applications for renewal or transfer of license of 8 broadcast stations were addressed in a timely manner. Additionally, 3,321 EEO programs of television renewal applicants were reviewed prior to the license expiration dates.

Objective: Conduct a continuing program review which will ensure Equal Employment Opportunity (EEO) in every aspect of cable systems' employment policies and practices as required by The Cable Communications Policy Act of 1984 (P.L. 98-549).

Accomplishment: The Commission's congressionally mandated cable EEO certification of employment units with more than six employees was completed for 1,800 out of 2,100 units in FY 1989. Although compliance decisions were made on the remaining 300 units, the various documents such as Letters of Admonishment and Letters of Non-Compliance were not prepared due to the lack of resources. Compliance certificates were issued to 1,800 units; however, 267 of those units also received letters of admonishment for various EEO deficiencies. Seven on-site reviews of cable systems' EEO programs were conducted during the year.

Objective: Plan for participation in international conferences and meetings to assure that frequencies allocated for mass media services are appropriate and sufficient to meet U.S. needs and that technical standards and operating procedures are consistent with national requirements. Execute international policy and accomplish international objectives in an effective, efficient and timely manner.

Accomplishment: Staff participation in international conferences and meetings assured adherence to policy requirements and technical standards. The major achievements were:

Refinement of text for a new FM broadcasting agreement with Mexico continued to develop procedures and standards which will assure more efficient use of the FM band in the coordination zones along the common border. One bilateral negotiation meeting was held in Mexico.

Texts were refined and final agreement was reached for new FM and TV agreements with Canada. This should assure more efficient use of FM and TV bands in the coordination zones along the common border. One bilateral negotiation meeting was held in Canada.

Text was developed for a new agreement with Canada and Mexico concerning use of the 1605-1705 kHz band for AM broadcasting. The 1988 Regional Administrative Radio Conference (RARC-88) regional agreement will assure efficient use of the band in the coordination zones along the common border. Two bilateral negotiations meetings were held with Canada and one with Mexico.

Other Accomplishments included: conclusion of negotiations with Mexico on new VHF and UHF Low Power TV agreements; agreement on use of 2500 MHZ band for instructional television fixed service; adoption of Report and Order on FM Broadcast Station Short-Spacing/Directional Antenna Systems; adoption of First Report and Order for new intermediate class of FM broadcast station in Zone II; and Second Report and Order which permits FM station power increase.

Objective: Determine, in accordance with relevant treaties and agreements, which U.S. broadcast stations must be internationally coordinated, and to insure expeditious notification to meet the various timetables for notifications (which vary according to nation and service).

Accomplishment: Notifications of AM assignments were made to the International Telecommunications Union (ITU), Bahamas, Dominican Republic, Mexico and Canada, and appropriate FM and TV notifications were made to Mexico and Canada. Continued international coordination of High Frequency International Broadcast Stations operating schedules were accomplished through coordination meetings with the Voice of America, British Broadcasting Corporation, Canadian Broadcasting Corporation, the Voice of Germany (Deutsche Welle), and Radio Netherlands.

Objective: Respond to Congressional and other high priority inquiries/complaints in a timely manner.

Accomplishment: A total of 1,071 Congressional inquiries were received and answered in FY 1989. They were answered in an average response time of six calendar days. Over 95% of non-congressional written inquiries were answered within 45 workdays of receipt.

WORKLOAD AND PERFORMANCE SUMMARY
Mass Media Activity

	FY 1988 Actual	FY 1989 Actual	FY 1990 Est.	FY 1991 Est.	Chg. FY 1991 Over FY 1990
AM Applications 1/					
a. Pending beginning of year	839	1,226 2/	1,399	1,552	+153
b. Received during year	2,491	3,871	3,755	3,555	-200
c. Disposed during year	2,249	3,881	3,602	3,602	0
Without hearing	2,238	3,857	3,479	3,414	-65
Designated for hearing	11	24	123	188	+65
d. Pending end of year	1,193	1,399 2/	1,552	1,505	-47
e. Workyears	30.6	35.25	37.25	37.25	0
AM Applications Age of Pending (AP)/ Speed of Service (SS)					
New and Major AP (in mos.)	71%<12	75%<12	75%<18	70%<18	--
Licenses and Others AP (in mos.)	87%<12	75%<12	75%<12	75%<12	--
Renewals SS (in days)	120	120	120	120	--
Assignment/Transfer AP (in mos.)	70%<3	80%<3	80%<3	80%<3	--
FM Applications 1/					
a. Pending beginning of year	3,857	3,996 2/	4,473	4,738	+265
b. Received during year	5,209	5,493	6,420	5,600	-820
c. Disposed during year	5,068	5,188	6,155	6,637	+482
Without hearing	3,855	4,830	5,343	5,743	+400
Designated for hearing	1,213	358	812	894	+82
d. Pending end of year	3,958	4,473 2/	4,738	3,701	-1,037
e. Workyears	75.0	52.2	54.2	59.2	+5.0
FM Applications AP/SS					
New and Major AP (in mos.)	75%<12	50%<12	67%<12	75%<12	--
Licenses and Others AP (in mos.)	60%<9	70%<9	45%<9	50%<9	--
Renewals SS (in days)	120	120	120	120	--
Assignment/Transfer AP (in mos.)	68%<3	80%<3	80%<3	80%<3	--

	FY 1988 Actual	FY 1989 Actual	FY 1990 Est.	FY 1991 Est.	Chg. FY 1991 Over FY 1990
TV Applications 1/					
a. Pending beginning of year	511	380	261	171	-90
b. Received during year	1,531	1,179	1,040	1,323	+283
c. Disposed during year	1,662	1,298	1,130	1,253	+123
Without hearing	1,515	1,273	1,098	1,181	+83
Designated for hearing	147	25	32	72	+40
d. Pending end of year	380	261	171	241	+70
e. Workyears	16.0	14.0	14.0	15.0	+1.0
TV Applications AP/SS					
New and Major AP (in mos.)	75%<6	75%<6	75%<6	75%<6	--
Licenses and Others AP (in mos.)	67%<6	67%<6	67%<6	67%<6	--
Renewals SS (in days)	120	120	3/	120	--
Assignment/Transfer AP (in mos.)	75%<6	75%<6	75%<6	75%<6	--
FM Translators Applications 1/					
a. Pending beginning of year	235	478 2/	722	1,022	+300
b. Received during year	872	1,388	1,770	1,490	-280
c. Disposed during year	648	1,189	1,470	1,470	0
Without hearing	648	1,189	1,470	1,470	0
Designated for hearing	0	0	0	0	0
d. Pending end of year	478	722 2/	1,022	1,042	+20
e. Workyears	4.3	5.7	5.7	5.7	0
FM Translator AP/SS					
New and Major AP (in mos.)	57%<12	75%<12	70%<12	70%<12	--
Licenses and Others AP (in mos.)	68%<3	80%<3	80%<3	80%<3	--
Renewals SS (in days)	120	120	120	120	--
Assignment/Transfer AP (in mos.)	75%<3	90%<3	90%<3	90%<3	--

	FY 1988 Actual	FY 1989 Actual	FY 1990 Est.	FY 1991 Est.	Chg. FY 1991 Over FY 1990
LPTV/TV Translators Applications 1/					
a. Pending beginning of year	6,648	4,162	2,381	2,056	-325
b. Received during year	3,405	3,120	3,200	3,258	+58
c. Disposed during year	5,891	4,901	3,525	3,638	+113
Without hearing	5,891	4,901	3,525	3,638	+113
Designated for hearing	0	0	0	0	0
d. Pending end of year	4,162	2,381	2,056	1,676	-380
e. Workyears	27.8	25.0	23.0	23.0	0
LFTV/TV Translator AP/SS					
New and Major	4/	4/	4/	4/	--
Licenses and Others AP (in mos.)	4/	4/	4/	4/	--
Renewals SS (in days)	120	120	3/	120	--
Assignment/Transfer AP (in mos.)	4/	4/	4/	4/	--
ITFS Applications					
a. Pending beginning of year	401	307	291	231	-60
b. Received during year	443	523	397	388	-9
c. Disposed during year	537	539	457	418	-39
Without hearing	537	539	457	418	-39
Designated for hearing	0	0	0	0	0
d. Pending end of year	307	291	231	201	-30
e. Workyears	5.5	5.13	5.0	4.5	-0.5
ITFS AP/SS					
New and Major AP/SS 5/	60%<6 mos.	120 days	120 days	120 days	--
Licenses and Others AP/SS 5/	50%<6 mos.	45 days	45 days	45 days	--
Renewals SS (in days)	120 days	120 days	120 days	120 days	--
Assignment/Transfer AP (in mos.)	75%<6 mos.	75%<6 mos.	75%<6 mos.	75%<6 mos.	--

	FY 1988 Actual	FY 1989 Actual	FY 1990 Est.	FY 1991 Est.	Chg. FY 1991 Over FY 1990
Cable TV Applications 6/ 7/					
a. Pending beginning of year	202	377	281 8/	321	+40
b. Received during year	6,228	7,604	6,166	4,670	-1,496
c. Disposed during year	6,053	7,789	6,126	4,670	-1,496
Without hearing	6,053	7,789	6,126	4,670	-1,496
Designated for hearing	0	0	0	0	0
d. Pending end of year	377	192	321	321	0
e. Workyears	9.92	10.36	12.31	11.66	-0.65
Cable TV SS					
Aeronautical Frequencies Usage					
Notifications	21 days	21 days	21 days	21 days	--
Waivers	21 days	21 days	21 days	7/	--
76.12 Registration Statements	30 days	30 days	30 days	30 days	--
Special Relief	4/	4/	4/	4/	--
CARS	14 days after end of comment period	14 days after end of comment period	14 days after end of comment period	14 days after end of comment period	--
Auxiliary Services Major Actions 9/					
a. Pending beginning of year	751	595 2/	490	550	+60
b. Received during year	1,997	1,992	2,500	2,400	-100
c. Disposed during year	2,183	2,155	2,440	2,440	0
Without hearing	2,183	2,155	2,440	2,440	0
Designated for hearing	0	0	0	0	0
d. Pending end of year	565	490 2/	550	510	-40
e. Workyears	5.2	6.0	6.0	6.0	0
f. Age of pending (in mos.)	78%<6	70<6	65%<6	70%<6	--

	FY 1988 Actual	FY 1989 Actual	FY 1990 Est.	FY 1991 Est.	Chg. FY 1991 Over FY 1990
Summary					
a. Pending beginning of year	13,445	11,521 2/	10,298 8/	10,641	+343
b. Received during year	22,177	25,170	25,248	22,684	-2,564
c. Disposed during year	24,293	26,940	24,905	24,128	-777
Without hearing	22,922	26,533	23,938	22,974	-964
Designated for hearing	1,371	407	967	1,154	+187
d. Pending end of year	11,420	10,209 2/	10,641	9,197	-1,444
Total Workyears	174.57	153.64	157.46	162.31	+4.85
Number of Authorized Licensed Broadcast Stations					
1. AM	4,915	4,965	5,000	5,030	+30
2. Commercial FM	4,116	4,240	4,300	4,350	+50
3. Educational FM	1,356	1,407	1,425	1,450	+25
4. Commercial TV	1,049	1,085	1,115	1,150	+35
5. Educational TV	333	346	358	370	+12
6. LPTV/TV Translators	5,657	5,486	5,580	5,660	+80
7. FM Translators	1,625	1,783	1,900	2,000	+100
Total	19,051	19,312	19,678	20,010	+332

FOOTNOTES

1/ Totals include new and major, license and others, renewals and assignment and transfer applications.

2/ The pending counts for FY 1988 and FY 1989 have been adjusted to reflect the results of inventories of pending cases.

3/ Speed of Service is not appropriate for TV and LPTV/TV Translator renewals in FY 1990 since the renewal cycles for these services ended in FY 1989 and will not resume again until late in FY 1991.

4/ Speed of Service and age of pending data are not used in this category.

5/ The Bureau began tracking speed of service in FY 1989 in lieu of age of pending.

6/ Totals include Aeronautical Frequencies Usage Notifications, Aeronautical Frequencies Usage Waivers, 76.12 Registration Statements, and CARS applications. Beginning in FY 1990, totals also include Special Relief workload.

7/ Effective July 1990, aeronautical frequency usage requirements will be replaced by new frequency offset rules that eliminate the need for such waivers. This service, therefore, will be discontinued starting in FY 1991.

8/ Special Relief: On July 19, 1985, the U.S. Court of Appeals for the District of Columbia Circuit, invalidated the Commission's must-carry requirements. Consequently, the staff was able to dismiss all special relief petitions involving the must-carry rules. With the adoption of the Cable Communications Policy Act of 1984, there has been a steady increase in the filing of special relief petitions involving interpretations of the Act, effective competition, significantly viewed status, and CATV/TV cross ownership. With the advent of the newly adopted syndicated exclusivity rules, the number of special relief requests are expected to increase further. Projections for Special Relief workload are included in the workload tables for FY 1990 and FY 1991, including 89 Special Relief petitions that were pending at the beginning of FY 1990.

9/ "Major Actions" are equivalent to the category of "New and Major Changes" in the other services. In the auxiliary services, however, a single application is filed to obtain both a permit and covering license. Also, auxiliary service licenses are generally held by licensees of full service AM, FM and TV stations and are renewed, assigned and transferred automatically, without separate application, whenever such actions occur to the main station license.

FY 1990/1991 Activity Objectives

1. Plan and develop policies and rules that foster efficient use of the spectrum and encourage creation of opportunities for new or improved service, in order to provide for diversity of independent voices and competition. Evaluate the policies and rules relating to the mass media industry to determine whether they are consistent with the goals of the Mass Media Activity.

2. Expeditiously process applications and submissions relating to permits to construct new audio and video stations, operating licenses, renewal and assignment and transfer of such authorizations in the AM, FM, TV, translator, LPTV, auxiliary and other related services, and notifications and petitions for cable television and related services. (See workload tables.)

3. Within existing parameters, develop a full record to determine: (a) whether applicants are qualified; (b) among multiple applicants, which one is most deserving to receive the contested license; and (c) whether an existing licensee deserves to remain as such. Dispose of adjudicatory cases in the most expeditious manner possible.

4. Examine all political broadcasting complaints. Conduct in-depth investigations of alleged substantial violations. Answer requests for ruling as time permits.

5. Conduct on-site investigations of allegations of flagrant violations of Commission rules and policies. Conduct appropriate investigations into other serious violations. Evaluate and process the most serious violation notices referred by the Field Operations Activity.

6. Process Annual Employment Reports (FCC Form 395), review the EEO performance of the broadcast industry and process petitions to deny with EEO elements in a timely manner.

7. Conduct a continuing program review which will ensure Equal Employment Opportunity (EEO) in every aspect of cable systems' employment policies and practices as required by The Cable Communications Policy Act of 1984 (P.L. 98-549).

8. Plan for participation in international conferences and meetings to ensure that frequencies allocated for mass media services are appropriate and sufficient to meet U.S. needs and that technical standards and operating procedures are consistent with national requirements. Execute international policy and accomplish international objectives in an effective, efficient and timely manner.

9. Determine, in accordance with relevant treaties and agreements, which U.S. broadcast stations must be internationally coordinated, and to insure expeditious notification to meet the various timetables for notifications (which vary according to nation and service).

10. Respond to Congressional and other high priority inquiries/complaints in a timely manner.

Justification:

The Mass Media Activity is requesting $314,000 and ten full-time equivalents to support its FY 1991 objectives. The request includes:

$154,000 to fund five full-time equivalents (one Attorney, four Engineers) to reduce by 16% (82 applications) the expected backlog of 508 FM New and Major Change applications pending over 12 months at the end of FY 1990 and to dispose of 400 FM License and Other applications, including 220 (18%) of the 1,221 backlogged applications in this category expected to be pending in excess of 9 months at the end of FY 1990.

The increases in workload (applications for new stations and for changes in existing FM facilities) are of the kind that require substantial processing by engineers. Therefore, we are requesting four additional engineer full-time equivalents to achieve a substantial reduction of the large backlogs. One additional attorney full-time equivalent is needed to handle the legal aspects of the backlogs, primarily to prepare hearing designation orders for mutually exclusive groups of new station applications.

$94,000 to fund three full-time equivalents (one Attorney and two Engineers) for the Policy and Rules Division to complete and implement an Advanced TV (ATV) Report and Order in FY 1991 that would make spectrum allotment and technical standards decisions for terrestrial TV broadcasting of ATV. Because of the importance and technical complexity of these decisions, particularly if the Commission decides to mandate technical standards that are are not identical to those reached through an industry consensus, it is essential that additional engineering staff be assigned full time to this project in FY 1991.

Assuming that the Commission also makes the spectrum allotment and assignment decisions for all or most existing TV stations in FY 1991, there will be a need for a new full-time attorney to work on legal aspects of the allotment and assignment process. Because the Commission may decide to give every TV station or nearly every station an additional 3 or 6 MHz to transmit ATV signals, the legal issues in sorting out the use of the spectrum are likely to be complex and time consuming.

Members of Congress have suggested that ATV decisions may have major (billion dollar) effects on sales by U.S. electronics manufacturers and the U.S. balance of trade. Given the economic repercussions that would result from a delay in the setting of spectrum allotment and technical standards in this proceeding, it is essential to budget for sufficient staff to handle this complex project.

$42,000 to fund two full-time equivalents (EEO Specialist) in the EEO Branch to help handle an increase in workload in connection with evaluation of broadcast licensees' EEO programs, processing of cable TV annual employment reports, and conducting on-site reviews of cable employment units. With the onset of the radio license renewal cycle, the number of broadcast license renewal application receipts doubled from 1,456 applications filed in FY 1988 to 3,195 in FY 1989. There was also a corresponding increase in the number of petitions to deny license renewal applications based on allegations of EEO deficiencies (21 petitions to deny filed in FY 1989 affecting 132 stations). These higher levels of renewals and related petitions are expected to continue through FY 1991.

The increased workload in the broadcast EEO area has resulted in a backlog of 300 broadcast renewal applications being held in a deferred status until questions involving their EEO programs can be resolved. This backlog is expected to increase to 450 in FY 1990 and, absent an increase in staffing to help conduct the necessary inquiries to determine whether any enforcement sanctions should be imposed, the backlog will increase to 600 applications by the end of FY 1991. With the two additional EEO Specialists, the EEO Branch will be able to reduce the backlog of deferred renewals to 333 by the end of FY 1991.

The increasing backlogs of deferred broadcast license renewals has a detrimental effect on providing improved broadcast service to the public, since deferred renewal may delay action on other pending applications for the broadcast stations involved, including construction permit applications, applications for licenses to cover construction permits, and applications to assign or transfer the station.

The Cable Act and the Commission's Rules require the EEO Branch to review cable employment reports filed annually by 2,100 employment units to determine compliance with the Cable Act and the Rules, and to annually certify each employment unit as in compliance with Section 634 of the Cable Act if, on the basis of information in the possession of the Commission, such employment unit was in compliance during the annual period involved. The Commission's congressionally mandated cable EEO certification of employment units with more than six employees was completed for 1,800 out of 2,100 units in FY 1989. Although compliance decisions were made on the remaining 300 units, the various documents such as Letters of Admonishment and Letters of Non-Compliance were not prepared due to lack of resources. Compliance certificates were issued to 1,800 units; however, 267 of those units also received letters of admonishment for various EEO deficiencies. Without additional resources, this situation is expected to continue through FY 1991.

The additional EEO Specialists are also needed to enable the EEO Branch to conduct the additional on-site EEO audits of cable systems planned for FY 1991. The majority of audits are presently conducted by EEO Branch managers and the three attorneys assigned to the Branch. The Branch managers will not be able to continue to adequately handle their day-to-day management responsibilities if they personally conduct any additional on-site audits. Likewise, the attorneys cannot be spared for additional audits since they will be needed to handle the backlog of deferred broadcast license renewals that involve petitions to deny.

$14,000 for two AT-compatible 80286 CPU Personal Computers and associated software to support highly specialized computing activities in the Policy and Rules Division.

The first personal computer will be utilized to perform statistical and financial analysis in response to congressional requests and in conjunction with rulemaking activities, using software not available on the Commission's office automation computers. This computer will give Policy and Rules Division the capability to conduct sophisticated statistical analysis such as regressions to estimate the level of competition in the broadcasting and cable TV industries.

The Policy and Rules Division International Staff have an almost daily need to interact with other members of the Consultative Committee on International Radio (CCIR) Study Groups 10 and 11. To perform this function efficiently and effectively, the International Staff needs a computer and software that are compatible with the hardware and software used by other Study Group members, so that documents can be electronically transferred and edited. The second personal computer will meet this requirement and speed the Commission's response time for international negotiations.

The second personal computer will also be used to analyze the FAA Instrument Landing Sysytem (ILS) model and actual FAA determinations that proposed new or modified FM radio broadcasting stations would interfere with airport ILS's. Presently, the Bureau is unable to properly analyze these FAA determinations to confirm or refute FAA contentions of interference. Hence, the only recourses presently available are to require affected applicants to amend their proposals by changing transmitter site and/or frequency or to dismiss their applications if amendments to overcome FAA objections are not feasible. As a consequence, new or improved FM service is sometimes delayed or precluded. The second personal computer will give the Bureau the capability to confirm or refute FAA determinations of interference which would place the Bureau in a better position to negotiate with the FAA on behalf of FM applicants to resolve FAA objections and, perhaps, avoid unnecessary application amendments.

$10,000 of additional travel funding to conduct on-site EEO audits of cable employment units as required by Section 634(e)(2) of the Cable Communications Policy Act of 1984 (Cable Act). The purpose of these audits is to determine whether employment profiles are accurately reported on the required annual statistical employment reports (FCC Form 395-A) and whether job classification and employee responsibilities are accurately defined.

To perform the very minimal requirements for cable audits, the Commission, when it adopted rules to implement the Cable Act, proposed on-site reviews of one to two percent of the universe of cable units as a reasonable sample, which would require reviewing 50 cable units each year. However, due to budgetary constraints, the EEO Branch was only able to conduct 10 on-site audits in FY 1989 and will only be able to conduct approximately 10 audits in FY 1990. The additional travel funds requested will provide funding for 12 additional audits in FY 1991 over FY 1990, which would more closely conform to the legislative intent of Congress when it enacted the Cable Act and the Commission's intent when it adopted rules to implement the Cable Act.

IV. COMMON CARRIER ACTIVITY

Analysis of Resources
(Dollars in Thousands)

Resource Requirements:	FY 1989 Actual	FY 1990 Estimate	FY 1991 Adj. to Estab. Base	FY 1991 Base	FY 1991 Programmatic Increase	FY 1991 Request
Budget Authority	$19,548	$20,193	$+ 661	$20,854	$+ 423	$21,277
Outlays	$19,235	$21,268	--	--	--	$21,212
FTE employment:	308	308	--	308	+ 4	312
Personnel by Program:	FTE	FTE	FTE	FTE	FTE	FTE
Accounting & Audits	65	61	--	61	--	61
Rate & Service Regulation	110	114	--	114	+ 4	118
Auth. of Service & Fac.	123	123	--	123	--	123
International	10	10	--	10	--	10
Total	308	308	--	308	+ 4	312

Activity Description: The Common Carrier Activity consists of the development and administration of policies and programs for the regulation of the services, facilities, rates and practices of all entities which furnish interstate or foreign communication services for hire--whether by wire, radio, cable or other such services. Specific functions include review of carrier service, charges, classifications, regulations and practices for justness, reasonableness, and nondiscrimination; authorization and regulation of carrier facility investments and service offerings; prescription of depreciation practices and accounting systems. The Commission, principally through its Common Carrier Activity, also handles complaints and inquiries from the public, monitors quality of carrier service, prescribes and enforces equal employment opportunity practices by the carriers, and participates in international common carrier facility planning and coordination.

FY 1989 Objectives/Accomplishments:

Objective: Continue to modify the Uniform System of Accounts (new Part 32 of the FCC Rules and Regulations) to reflect changes in the industry, new regulatory decisions and changes in professional accounting standards, and assist carrier transition to the new accounting system by identifying transitional difficulties, formulating and implementing appropriate solutions, and providing instructions and guidance to carriers. Implement a computerized financial and cost data reporting system resulting from the USOA rewrite and design costing models to meet the Bureau's broad range of regulatory information needs with regards to rate of return, costing methodologies, access charges, separations, and depreciation reserves.

Accomplishment: We continued to refine the requirements of the new system of accounts (Part 32 of the FCC Rules and Regulations) through the issuance of several orders in response to petitions for reconsideration and clarification. The Commission's commitment to generally accepted accounting principles (GAAP) was reaffirmed through the denial of waiver requests which, if approved, would have departed from GAAP and returned to historical regulatory accounting practices for debt reacquisitions. We reviewed and responded to requests for waivers and approvals in those areas where requirements for waivers and approvals were specified in Part 32. We issued several interpretations to facilitate carrier changeover to the new system and to communicate our standard practice expectations to all subject carriers. We issued an order on reconsideration which modified the Commission's rate base rules. We issued a final order revising the Commission's Annual Report Form M to conform certain financial, corporate, and statistical reporting to Part 32 of our Rules. We also worked to review and evaluate new GAAP pronouncements and to clarify the Commission's position with respect to any new accounting standards.

We issued a series of orders concerning the carriers' cost allocation manuals. These orders discussed our review of the carriers' manuals and instructed the carriers to revise certain sections of their manuals. We also are continuing to review the carrier initiated revisions to the manuals and the carriers' allocations of costs between their regulated and nonregulated operations.

We continued to refine the automated reporting system we adopted in 1987 to collect and process financial and operating data from the telecommunications carriers that we need to effectively administer our major regulatory programs. The programs include our access tariff review, rate of return requirements, and compliance with the Joint Cost Manuals and jurisdictional separations programs. To this end we adopted an order on reconsideration to address industry concerns about the automated reports. These modifications include clarifying the instructions associated with certain rows and columns on the reports and adding certain rows or columns to collect additional data required to monitor carrier compliance with our rules. We modified the Quarterly Report, the Uniform System of Accounts Report, the Joint Cost Report and the Access Report.

Objective: Audit selected carriers' accounting systems to insure compliance with Commission regulations and recent Commission and Court decisions. This will include auditing carrier compliance with the Commission's rules for the provision of Customer Premises Equipment and enhanced services, carrier implementation of changes in the separations manual, and the implementation of joint cost manuals for allocating costs between regulated and nonregulated activities.

Accomplishment: The audits staff conducted 21 audits during FY 1989. The audits generally related to adherence with the Commission's costing rules (Docket 86-111) and its accounting, separations and access rules. In the cost area, we reviewed affiliated transactions between several nonregulated service companies and their affiliated regulated telephone companies, and several attest audits performed by the regulated telephone companies' public accountants. Our costing rules require that the accountants attest that the telephone companies are following their cost manuals. We also audited several telephone companies' accounting, separations and access treatment of inside wire expense. The FY 1989 audits highlighted areas where carriers were not in conformance with the Commission's rules and identified possible disallowances for failure to follow these rules. They have also been useful to the Commission in assessing the need for revising and strengthening its rules.

Objective: Recommend prescription of remaining life and equal-life-group depreciation rates based on the previous year's triennial reviews, conduct regular triennial review of service lives, salvage percentages, and depreciation rates for all accounts of the local exchange carriers scheduled for review in FY 1989 and in FY 1990, and conduct an annual update of depreciation rates for all local exchange carriers that request such rates.

Accomplishment: During FY 1989, the Commission approved an order prescribing remaining life depreciation rates and amortization amounts for the fifteen carriers, operating in twenty-seven jurisdictions, that were scheduled for a full triennial review in 1988. During FY 1989, the Commission also approved an order prescribing depreciation rates and amortization amounts for three carriers, operating in three jurisdictions, requesting annual updates in 1988. Full triennial reviews were conducted for the eleven carriers, operating in 26 jurisdictions, that were scheduled for a full review in 1989. No annual update studies were submitted during FY 1989.

In addition to the planned activities, the Commission approved an order prescribing remaining life depreciation rates and amortization amounts for American Telephone and Telegraph Company's 22 interexchange companies operating in 48 jurisdictions.

COMMON CARRIER

Objective: Continue to participate in the Federal-State Joint Board process as needed. Review carrier cost allocation manuals to determine whether they provide for the proper allocation of costs between regulated and nonregulated activities; recommend changes to these manuals as required.

Accomplishment: We recently adopted two recommendations we received from the Joint Board. The first concerns the measurement of Feature Group A and B state and interstate traffic and the second item concerns the assignment of the cost of mixed use special access lines to the state jurisdiction when ten percent or less of the overall traffic on the special access lines is interstate. We also are continuing to meet with the Federal-State Joint Board to discuss other issues the Commission has referred to the Joint Board for a recommendation. The issues include Marketing Expenses, Revenue Accounting Expenses, Category 3 Local Dial Switching Equipment Investment and Category 4 Circuit Equipment Investment and Cable and Wire Facilities Investment. Finally, we established a new Joint Conference as an ongoing forum for state/federal cooperation to facilitate the development and implementation of Open Network Architecture (ONA). The Conference addressed and reached consensus on a number of procedural issues. It also agreed to focus on three substantive issues, including methods for determining the jurisdictional nature of ONA services, the propriety and possible development of common state and federal ONA tariff provisions, and jurisdictional separations.

Objective: Review tariff filings within the statutory time limit. Continue to work on implementation of the electronic filing of tariff and supporting economic data. Continue to maintain the tariffs, supporting economic data and related documents in the Tariff Public Reference Room.

Accomplishment: See the attached workload chart. During FY 1989, the Tariff Review Branch was able to review tariff filings within the statutory time frames. The Tariff Review Branch continues to improve its computer capability to be used in the analysis of tariff filings and the Annual Access Filings in particular. This capability is also related to the Automated Record Management Information System (ARMIS) which the Tariff Division and other Divisions in the Common Carrier Bureau are in the process of implementing. Economic data supporting the annual filings will be submitted in accordance with the requirements of the Tariff Review Plan and will be furnished on diskettes compatible with the computers. The Tariff Review Branch continued to maintain the tariffs, supporting economic data and related documents in the Tariff Public Reference Room.

Objective: Process all formal complaints under Section 208 of the Act, pole attachment complaints filed pursuant to Section 224 of the Act and handle informal complaints and public inquiries as expeditiously as possible. Process all FOIA requests filed pursuant to 5 U.S.C. § 552; review merger applications to determine that such mergers do not substantially lessen competition or tend to create a monopoly and are otherwise in the public interest; and process all requests to approve interlocking directorates filed pursuant to Section 212 of the Act.

Accomplishment: See the attached workload chart for formal complaints, informal complaints and public inquiries, FOIA requests, and interlocking directorate accomplishments. During FY 1989, the Enforcement Division handled a number of special projects assessing forfeitures for violations of the Communications Act and the Commission's rules, orders and policies. Fines were imposed against two "dial-a-porn" message service providers for failure to employ Commission-approved restrictions designed to limit the access of minors and nonconsenting adults. Forfeitures were also ordered against a local exchange carrier for unlawful restraints on customers' rights to handle inside wiring and against a cellular operator for premature construction. In addition, certain applications for cellular radio systems were designated for hearing based upon character issues involving an applicant who previously was found to have violated the Commission's rules concerning telephone/cable television cross-ownership. An order determining whether certain aspects of AT&T's "900" service offerings are basic or enhanced services was also released. In addition, the Enforcement Division handled the approval of the transfer of control of TRT Telecommunications Corporation from UNC, Inc. to Pacific Telecom, Inc. and applications for review of the approval of the transfer of certain Communications Satellite Corporation subsidiaries to Continental Telephone Corporation. Both formal and informal complaints against Alternative Operator Services (AOS) companies were handled during FY 1989, culminating in the imposition of certain restraints on AOS operators.

Objective: Continue to create a fully competitive domestic marketplace for the provision of communications services and equipment. Reexamine common carrier policies generally to determine further deregulatory initiatives.

Accomplishment: During FY 1989, the Common Carrier staff continued to promote competition in the enhanced services markets by implementing the Computer III proceeding. The BOC ONA Order continued this process by approving, in part, the BOCs' ONA plans, but requiring the BOCs to amend those plans further before the removal of existing separate subsidiary rules for BOC provision of enhanced services. The AT&T ONA Order also advanced the Computer III implementation process, approving, with a minor condition, AT&T's ONA plan as adequately describing the manner in which it planned to respond to competing enhanced service providers (ESPs) for equal and efficient access to its basic services. The staff also approved, generally with conditions, 19 Comparably Efficient Interconnection (CEI) plans, which included proposed offerings such as voice messaging service, gateway service, protocol processing, message storage, and electronic messaging. In addition, the staff prepared a notice of proposed rulemaking that proposes ways to integrate ONA tariffing policies into the existing Part 69 access charge rules, while retaining the exemption from access charges for ESPs and eliminating certain ONA pricing requirements. The staff also issued an order addressing the obligations of local exchange carriers (LECs) regarding access for 800 service.

Objective: Monitor the changing telecommunications industry to provide timely analysis of industry trends and economic conditions, including such issues as the extent, nature and causes of bypass, and the impact of Commission actions on the price and availability of basic telephone service. Continue the agreement with the Census Bureau to provide the staff with a statistical tape, combining economic statistics and telephone related data. Monitor the impact of access charges on the behavior of telephone subscribers, and monitor the implementation of equal access and the development of competition in interstate telecommunications.

Accomplishment: During FY 1989, the Common Carrier staff continued to monitor the changing telecommunications industry. Periodic reports were produced on the following topics: trends in telephone service; telephone subscribership and penetration levels; carriers purchasing switched and equal access from the Bell Operating Companies, the number of firms possessing carrier identification codes assigned to interexchange carriers; summaries of state telephone rate cases decided by state public utility commissions; the number of equal access conversions; and AT&T's share of the interstate market. Studies and reports were also issued on the following international telecommunications topics: trends in the international communications industry; international telephone message service; international traffic data; international telephone price comparisons; and international accounting rates. In addition, we completed, in cooperation with State staff members, a series of comprehensive monitoring reports which were transmitted to Congress, produced research papers and reports providing demographic characteristics of telephone subscribers, summary information for our rate of return monitoring program, analyses of fiber optic technology and capacity, analyses of the effect of various forms of state regulation on intrastate toll prices, and summary analyses of quality of service data provided by operating companies. The agreement with the Bureau of Census to obtain telephone subscribership data as part of the Current Population Survey was continued.

Objective: Process applications expeditiously, utilizing automated techniques wherever possible.
Accomplishment: See attached workload charts.

Objective: Participate in International Facilities Planning for the North Atlantic Region and the Pacific Region.

Accomplishment: On December 27, 1988, a Memorandum Opinion, Order and Authorization was released which authorized several United States international common carriers to construct and operate the TAT-9 digital optical fiber submarine cable system which will land in the United States, Canada, the United Kingdom, France and Spain. A cable landing license authorizing those carriers to land the TAT-9 cable in the United States was released on the same day. The Commission released a Memorandum Opinion and Order on May 22, 1989 clarifying its policy concerning common carrier use of private international cable systems. A Memorandum Opinion and Order was released on June 26, 1989 granting the application of Private Transatlantic Telecommunications System, Inc. (PSI), its trustees and US Sprint Communications Company Limited Partnership for transfer of control of PSI to US Sprint. PSI holds the license to land the PTAT-1 private digital optical fiber submarine cable system in the United States. This will extend the system from the U.S. to Bermuda, the United Kingdom and Ireland.

Objective: Perform the necessary analysis for various planning approaches and to implement results of decisions from international conferences. Prepare U.S. positions and lead U.S. delegations for international meetings dealing with common carrier telecommunications related issues. Represent the Commission at World and Regional Administrative Radio Conferences and other international meetings such as the International Telecommunications Satellite Organization (INTELSAT), the International Maritime Telecommunications Satellite Organization (INMARSAT), the Organization for Economic Cooperation and Development (OECD), and the Inter-American Telecommunications Conference (CITEL). Conduct bilateral and multilateral negotiations with foreign administrations concerning international telecommunications policies and other related matters.

Accomplishment: The second session of the ITU Space WARC (ORB-88) ended in the early part of FY 1989 with Common Carrier staff having participated as delegates and support staff to the conference from August 29, 1988 to October 5, 1988. From the perspective of the U.S. the conference was successful in that there was no expansion of the frequency band and, subject to planning and regulatory procedures adopted, the non-planned bands remained sufficiently flexible. The allotment plan adopted by the conference affords protection to existing U.S. systems and provides for the accommodation of U.S. requirements. Since the close of the conference, the Common Carrier staff has been working with the International Frequency Registration Board (IFRB), NASA's Lewis Research Center and the Department of Commerce in refining the computer programs for implementation of the allotment and planning results of the conference.

Common Carrier staff prepared background and position papers and participated in preparatory activities for the Assembly of Parties and Board of Governors meetings of INTELSAT, for the Assembly of Parties and Council meetings of INMARSAT, and for the International Consultative Committee for Telephone and Telegraph (CCITT) and the International Radio Consultative Committee (CCIR) throughout FY 1989. Staff participated on official U.S. delegations to International Telecommunications Union (ITU) conferences and meetings; telecommunications trade negotiations with foreign governments; meetings of the CCITT, CCIR, CITEL, and OECD; as well as bilateral and multilateral meetings on preparations for the CCITT Plenary Assembly (Melbourne, 1988), the World Administrative Telegraph and Telephone Conference (WATTC-88) (Melbourne, 1988), and the 13th ITU Plenipotentiary Conference (PLENIPOT) (Nice, 1989). In conjunction with preparatory activities and general delegation participation, staff members also served as Vice Chairman and Principal Spokesman on all three major conferences during the period (CCITT Plenary Assembly, the WATTC and the PLENIPOT), significantly contributing to the success of the U.S. delegations to those important conferences. The Common Carrier staff also was intimately involved in meeting directly with representatives of foreign governments on telecommunications matters, both in Washington and abroad. The countries involved included Brazil, Canada, the Federal Republic of Germany, Finland, France, Italy, Japan, Mexico, the Netherlands, United Kingdom, and the USSR. Areas requiring significant effort included Space WARC, WATTC-38, the CCITT Plenary Assembly, the ITU PLENIPOT, telecommunications trade, international coordination of domestic and separate satellite systems, CCITT and ITU structure, international operation and standardization development, and international tariffing principles.

FY 1990/FY 1991 Activity Objectives:

1. Continue to modify the Uniform System of Accounts (new Part 32 of the FCC Rules and Regulations) to reflect changes in the industry, new regulatory decisions and changes in professional accounting standards, and assist carrier transition to the new accounting system by identifying transitional difficulties, formulating and implementing appropriate solutions, and providing instructions and guidance to carriers. Implement a computerized financial and cost data reporting system resulting from the USOA rewrite and design

costing models to meet the Bureau's broad range of regulatory information needs with regards to rate of return, costing methodologies, access charges, separations, and depreciation reserves.

2. Audit selected carriers' accounting systems to insure compliance with Commission regulations and recent Commission and Court decisions. This will include auditing carrier compliance with the Commission's rules for the provision of Customer Premises Equipment and enhanced services, carrier implementation of changes in the separations manual, and the implementation of joint cost manuals for allocating costs between regulated and nonregulated activities.

3. Recommend prescription of remaining life and equal-life-group depreciation rates based on the previous year's triennial reviews, conduct regular triennial review of service lives, salvage percentages, and depreciation rates for all accounts of the local exchange carriers scheduled for review in FY 1990 and in FY 1991, and conduct an annual update of depreciation rates for all local exchange carriers that request such rates.

4. Continue to participate in the Federal-State Joint Board process as needed, especially to foster federal/state cooperation in the implementation of ONA. Review carrier cost allocation manuals to determine whether they provide for the proper allocation of costs between regulated and nonregulated activities; recommend changes to these manuals as required.

5. Review tariff filings within the statutory time limit, continuing to work on implementation of the electronic filing of tariff and supporting economic data. Continue to maintain the tariffs, supporting economic data and related documents in the Tariff Public Reference Room.

6. Process formal complaints under Section 208 of the Act, pole attachment complaints filed pursuant to Section 224 of the Act and handle informal complaints and public inquiries as expeditiously as possible. Process FOIA requests filed pursuant to 5 U.S.C. §552; review merger applications to determine that such mergers do not substantially lessen competition or tend to create a monopoly and are otherwise in the public interest; and process requests to approve interlocking directorates filed pursuant to Section 212 of the Act.

7. Continue to create a fully competitive domestic marketplace for the provision of communications services and equipment. Reexamine common carrier policies generally to determine further deregulatory initiatives.

8. Monitor the changing telecommunications industry to provide timely analysis of industry trends and economic conditions, including such issues as the extent, nature and causes of bypass, and the impact of Commission actions on the price and availability of basic telephone service. Continue the agreement with the Census Bureau to provide the staff with a statistical tape, combining economic statistics and telephone related data. Monitor the impact of access charges on the behavior of telephone subscribers, and monitor the implementation of equal access and the development of competition in interstate telecommunications.

9. Process applications expeditiously, utilizing automated techniques wherever possible.

10. Participate in International Facilities Planning for the North Atlantic Region and the Pacific Region.

11. Perform the necessary analysis for the various planning approaches and prepare U.S. positions and lead U.S. delegations for international meetings dealing with common carrier telecommunications related issues. To the extent permitted by funding, represent the Commission at World and Regional Administrative Radio Conferences and other international meetings such as CCITT, CCIR, INTELSAT, INMARSAT, OECD, CITEL and Coordination of space and earth station facilities. Conduct bilateral negotiations with foreign administrations concerning international telecommunications policies and trade issues.

Justification:

Since deregulation, the Enforcement Activity has experienced an increasing volume and complexity of formal complaints as carriers seek to adjudicate disputes formerly handled in the context of larger regulatory proceedings. With past experience as a guide, we would anticipate a 5-10% increase in workload in FY 1991 over FY 1990. In addition, enforcement is expected to increase substantially as actions are instituted as a result of investigations conducted by the Informal Complaints Branch. We currently are experiencing the beginning of what we expect to be a continuing influx of complaints based on carriers' authorized rate-of-return. We anticipate that complaints of this type will continue to be filed well into the 1990s. We also expect a significant increase in formal complaints from the implementation of price cap regulation. Most significant, however, is the recently enacted 1988 FCC Authorization Act. It requires, inter alia, the Commission to issue final, appealable orders in certain tariff-related complaint proceedings within 12 months after a complaint is filed. In certain limited circumstances it allows an additional three months for completion. Further the Act prohibits the Commission from delegating authority to the Bureau to decide these cases as has been the norm in the past. The impact of the Authorization Act on the Enforcement Division is severe. There are currently approximately 150 pending formal complaints which fall within the parameters of the Act, or about 50% of the current caseload. As complainants realize that the Act guarantees a swift conclusion of complaints, parties will be encouraged to craft complaints in ways which will bring the subject matter under the Act and we can expect an increase in these filings. **We are requesting $183,000 for four FTEs for the informal and formal complaints workload.**

An increase of **$150,000 for additional computer equipment and software is requested** due to the increasing work required for technical analyses and satellite coordination. The Domestic Facilities, International Facilities, and International Policy Divisions currently utilize a DEC VAX minicomputer for engineering work, particularly analyses involved with the coordination of satellites. While the engineers in these divisions are looking toward the development of new data bases and production systems for this purpose, the VAX was purchased for international conference support and its processing capabilities are heavily taxed just before and during conferences. We are requesting a minicomputer so that these very necessary systems can be developed without interfering with conference work. The Domestic Facilities Division currently uses a Centronics 6080 printer to generate output for engineering work. The printer has experienced frequent breakdowns. Parts are no longer stocked for this printer, necessitating that it be out of service for periods of up to one month when a malfunction occurs. The requested printer would be a moderate capacity laser printer. The Domestic Facilities Division also requires two graphics terminals with each having a one megabyte memory upgrade, digitizing tablet, GKS-graphics software and a color graphics ink jet printer. The system will be used for engineering analyses that require retrieving and using antenna gain values from satellite coverage patterns to generate graphs and maps. A FORTRAN compiler is also needed for processing Multichannel Distribution Service applications so that a new application could be quickly tested to see if it is acceptable for filing. We are also requesting a 9-track tape drive to provide an easier means of updating the Commission's Master Frequency File on its Honeywell mainframe and to facilitate providing copies of the earth station data base for use by the public. The FCC has made great strides in the last two years in improving its satellite coordination processes and in performing analyses necessary for the formulation of proposals for international conferences and review of proposals made by other entities. Much of this has been done with a conglomeration of diverse computer equipment and a great amount of manual intervention. The requested items will increase the efficiency of the engineers by providing them with equipment that will work with existing hardware and reduce the need for manual intervention. This request is part of IRM Packet IX.

An increase of **$80,000 is requested for computer equipment, software, supplies and furniture** to provide personal computing capabilities to process the increasing technical workload of the Common Carrier Bureau. We continue to have a demand for high quality personal computers to assist engineers and economists in performing their work more efficiently and effectively. The Domestic Facilities Division and the International Facilities Division would like to provide more engineers with PC capabilities to assist in the analysis of complex earth and space station applications. The Geostationary orbit for conventional bands has become so crowded that it is now impossible to perform effective coordination or interference analysis using manual calculation processes. Both industry and government have developed complex software analysis tools to support their coordinations and filings with the FCC and ITU. The Common Carrier Bureau, in order to perform its basic regulatory functions, needs these PCs to verify and test the filings and make its own findings as to the value and effectiveness of applicants procedures for making their claims. The Industry Analysis Division needs new PCs to implement and expand monitoring efforts for international telecommunications, and for the Lifeline and Link-Up America programs in order to assure the Commission's goal of universal service. The Tariff Division needs an additional personal computer due to its expanding cost analysis role and the need to run advanced econometric models. The Division is planning to augment its staff with additional cost analysts from existing positions, due to the increasing volume and complexity of cost support material, and will need an additional PC to provide improved access for new and existing staff. Two Bernoulli Boxes are needed to ensure a back-up capability for hard disks on the PCs and to permit large telephone carriers to file cost support data on Bernoulli cartridges. Memory upgrades will allow two of our PCs to run large spread sheets efficiently. Personal computers have been beneficial to the Bureau in tariff cost reviews, auditing of telephone carriers, and for international conference preparations. We would like to see these uses expanded for satellite coordination and monitoring of the effects of the recently adopted Price Cap method of regulating AT&T's rates. We believe that additional PCs will enhance productivity in these areas that currently have very limited access to personal computers. This request is part of IRM Packet XI.

An increase of **$10,000 to fund audit travel for the Accounting and Audits Program is requested.** In recent Commission orders, the audit function has been placed in the forefront as a principle method of controlling cross-subsidization of costs between the telephone carriers' regulated and non-regulated operations. Further, the continuing implementation of Computer III, the new Uniform System of Accounts and the Separations and Access Charges rules will require additional auditing activity to ensure that carriers assign costs to the appropriate jurisdiction and the appropriate class of rate payer.

The Commission removed the structural separations requirements for nonregulated services from AT&T and will remove the requirements for structural separation from the Bell Operating Companies after their ONA plans are approved. This places more reliance on accounting and auditing to ensure the carriers are not subsidizing their nonregulated operations from their regulated operations. The $10,000 will fund two additional audits in FY 1991.

WORKLOAD AND PERFORMANCE SUMMARY
Common Carrier Activity

Application Workload	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
1. Multipoint Distribution Service (single channel)					
a. Pending beginning of year	75	62	46	36	-10
b. Received	84	62	50	210 1/	+160
c. Disposed	97	78	60	223 1/	+163
d. Pending end of year	62	46	36	23	-13
e. Speed of Service	56	55	70	70	0
f. Positions/FTE	2/1.0	2/1.0	1/0.75	1/1.00	0/+.25
2. Multipoint Distribution Service (multichannel)					
a. Pending beginning of year	380	29	537	587	+50
b. Received	239	837 2/	350 2/	675 3/	+325
c. Disposed	590	329	300	675 3/	+375
d. Pending end of year	29	537	587	587	0
e. Speed of Service	N/A	N/A	N/A	N/A	0
f. Positions/FTE	6/5.1	6/5.1	6/5.1 1/	6/5.8	0/+.70
3. Digital Electronic Message Service					
a. Pending beginning of year	263	56	18	10	-8
b. Received	92	9	20	270 4/	+250
c. Disposed	299	47	28	270 4/	+242
d. Pending end of year	56	18	10	10	0
e. Speed of Service	N/A	N/A	N/A	N/A	0
f. Positions/FTE	2/1.30	2/0.50	1/0.25	1/1.00	0/+.75
4. Point-to-Point Microwave Service					
a. Pending beginning of year	1591	2039	1751	1551	-200
b. Received	7793	7451	13000 5/	18600 6/	+5600
c. Disposed	7345	7739	13200 5/	18000 6/	+4800
d. Pending end of year	2039	1751	1551	2151	+600
e. Speed of Service	55	55	70	70	0
f. Positions/FTE	7/6.0	7/6.8	8/7.3	8/7.8	0/+.50

	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
5. Satellite Radio Service (Space Stations)					
a. Pending beginning of year	52	36	29	29	0
b. Received	45	43	50	50	0
c. Disposed	61	50	50	50	0
d. Pending end of year	36	29	29	29	0
e. Speed of Service	N/A	N/A	N/A	N/A	0
f. Positions/FTE	3/2.8	3/2.5	3/2.5	3/2.5	0/0
6. Domestic Section 214					
a. Pending beginning of year	32	39	19	19	0
b. Received	173	188	190	200	+10
c. Disposed	166	208	190	200	+10
d. Pending end of year	39	19	19	19	0
e. Speed of Service	45	45	45	45	0
f. Positions/FTE	3/2.5	3/2.5	3/2.5	3/2.5	0/0
7. Equipment Registration (Part 68)					
a. Pending beginning of year	471	328	181	181	0
b. Received	2145	2511	2200	2200	0
c. Disposed	2288	2658	2200	2200	0
d. Pending end of year	328	181	181	181	0
e. Speed of Service	40	40	40	40	0
f. Positions/FTE	4/3.67	4/3.75	4/3.75	4/3.75	0/0
8. Satellite Radio Service (Earth Stations)					
a. Pending beginning of year	1528	946	610	410	-200
b. Received	2863	2201	1800	1800	0
c. Disposed	3445 7/	2537	2000	2000	0
d. Pending end of year	946	610	410	210	-200
e. Speed of Service	55	55	60	60	0
f. Positions/FTE	4/4	4/3.9	4/4	4/4	0/0

		FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
9.	Routine International Section 214					
	a. Pending beginning of year	18	33	29	59	+30
	b. Received	195	150	170	170	0
	c. Disposed	180	154	140	140	0
	d. Pending end of year	33	29	59	89	+30
	e. Speed of Service	50	50	60	75	+15
	f. Positions/FTE	2/1.25	2/1.25	1/1.00	1/1.00	0/0
10.	Routine International Space and Earth Stations					
	a. Pending beginning of year	10	28	66	86	+20
	b. Received	99	159	100	100	0
	c. Disposed	81	121	80	80	0
	d. Pending end of year	28	66	86	106	+20
	e. Speed of Service	60	60	70	85	+15
	f. Positions/FTE	1/1.07	1/1.62	1/1.00	1/1.00	0/0
11.	Non-routine International Section 214					
	a. Pending beginning of year	20	28	23	32	+9
	b. Received	58	39	49	49	0
	c. Disposed	50	44	40	40	0
	d. Pending end of year	28	23	32	41	+9
	e. Speed of Service	110	110	120	130	+10
	f. Positions/FTE	4/3.65	4/3.20	3/2.50	3/2.50	0/0
12.	Non-routine International Space and Earth Stations					
	a. Pending beginning of year	15	26	14	9	-5
	b. Received	53	18	25	25	0
	c. Disposed	42	30	30	30	0
	d. Pending end of year	26	14	9	4	-5
	e. Speed of Service	110	110	110	110	0
	f. Positions/FTE	4/2.97	4/2.50	3/2.25	3.2.25	0/0

		FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
13.	Major Land Mobile					
a.	Pending beginning of year	2,929	4,757	6,345	8,345	+2,000
b.	Receipts	5,756	6,063	6,000	6,000	0
c.	Disposals	3,928	4,475	4,000	4,000	0
d.	Pending end of year	4,757	6,345	8,345	10,345	+2,000
e.	Speed of Service	150 days	175 days	190 days	220 days	+30 days
f.	Positions/FTE	17/10.5	16/15.2	15/15	14/14	-1/-1
14.	Cellular Radio - Initial Applications					
a.	Pending beginning of year	40	111,822	260,166	141,166	-119,000
b.	Receipts	115,634	185,433	1,000	150,000 8/	+149,000
c.	Disposals	3,852	37,089	120,000	50,000	-70,000
d.	Pending end of year	111,822	260,166	141,166	241,166	+100,000
e.	Speed of Service	772 days	150 days	240 days	350 days	+110 days
f.	Positions/FTE	6/5.5	11/10.5	8/7.5	7/6.5	-1/-1
15.	Cellular Radio - Major Modifications					
a.	Pending beginning of year	96	114	86	686	+600
b.	Receipts	86	398	1,600	2,000	+400
c.	Disposals	68	426	1,000	1,500	+500
d.	Pending end of year	114	86	686	1,186	+500
e.	Speed of Service	60 days	50 days	60 days	75 days	+15 days
f.	Positions/FTE	1/.5	1/1	2/1.5	2/1.5	0
16.	Cellular Radio - Minor Modifications					
a.	Pending beginning of year	15	69	64	2,764	+2,700
b.	Receipts	256	1,309	5,200	16,000	+10,800
c.	Disposals	202	1,314	2,500	2,500	0
d.	Pending end of year	69	64	2,764	16,264	+13,500
e.	Speed of Service	30 days	30 days	45 days	70 days	+25 days
f.	Positions/FTE	1/.5	1/1	2/1.5	2/1.5	0

		FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
17.	Minor Land Mobile					
a.	Pending beginning of year	3,197	2,929	1,823	2,123	+300
b.	Receipts	2,065	1,777	1,800	1,800	0
c.	Disposals	2,333	2,883	1,500	1,500	0
d.	Pending end of year	2,929	1,823	2,123	2,423	+300
e.	Speed of Service	240 days	240 days	240 days	240 days	0
f.	Positions/FTE	3/3.75	3/3	2/2	2/2	0
18.	Transfers and Assignments					
a.	Pending beginning of year	595	662	707	1,907	+1,200
b.	Receipts	1,001	2,034	2,600	2,600	0
c.	Disposals	934	1,989	1,400	1,400	0
d.	Pending end of year	662	707	1,907	3,107	+1,200
e.	Speed of Service	30 days	29 days	40 days	60 days	+20 days
f.	Positions/FTE	2/1.5	2/2	2/1.5	2/1.5	0

1/ Approximately 175 single channel MDS license renewal applications are expected.

2/ Most of the applications processed in FY 1989 and 1990 are for modifications and to certify completion of construction. In addition, reprocessing of applications will be necessary where a tentative selectee is found to be unqualified.

3/ Approximately 325 multichannel MDS license renewal applications are expected.

4/ Approximately 250 DEMS license renewal applications are expected.

5/ Approximately 6,000 Point to Point Microwave and Local Television Transmission Services license renewal applications are expected from A.T.&T and the Bell Operating Companies.

6/ Approximately 11,600 Point to Point Microwave and Local Television Transmission Service license renewal applications are expected for all carriers except A.T.&T and the Bell Operating Companies.

7/ Includes a large number of similar applications processed in the First Quarter, FY 1988 for Equatorial's earth station system. This situation has not arisen since that time, and consequently disposals have leveled off to approximately 500 to 600 per quarter.

8/ We project that fill-in applications will begin to be received during FY 1991.

Enforcement	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
1. Formal Complaints					
Pending Beginning of FY					
--current (less than 90 days)	149	157	515	687	+172
--backlog (more than 90 days)	0	0	0	50	+50
--deferred (awaiting policy resolution)	6	10	2	30	+28
Total Pending Beginning of FY	155	167	517	767	+250
Filed	122	477	380	400	+20
Resolved	110	127	130	145	+15
Pending End of FY					
--current	157	515	687	847	+160
--backlog	0	0	50	125	+75
--deferred	10	2	30	50	+20
Total Pending End of FY	167	517	767	1022 1/	+255
Positions/FTE	4/3.90	4/5.06	4/4.7	5/6.0	+1/+1.3
2. Pole Attachment Complaints					
Pending Beginning of FY					
--current (less than 90 days)	0	17	16	15	-1
--backlog (more than 90 days)	0	0	0	0	0
--deferred	47	21	12	8	-4
Total Pending Beginning of FY	47	38	28	23	-5
Filed	24	3	10	10	0
Resolved	33	13	15	15	0
Pending End of FY					
--current	17	16	15	12	-3
--backlog	0	0	0	0	0
--deferred 2/ (awaiting policy resolution)	21	12	8	6	-2
Total Pending End of FY	38	28	23	18	-5
Positions/FTE	4/2.4	4/1.46	4/1.5	4/1.5	0/+0.0

COMMON CARRIER

	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY1991 Estimate	Change FY 1991 Over FY 1990
3. FOIA's/Confidentiality					
Pending Beginning of FY	0	1	16	16	0
Number of Requests	43	111	100	100	0
Processed	42	96	100	100	0
Pending End of FY	1	16	16	16	0
Positions/FTE 3/	1/.48	1/1.17	1/1	1/1	0/0
4. Interlocking Directorates					
Pending Beginning of FY	0	0	0	0	0
Filed	13	11	10	10	0
Processed	13	11	10	10	0
Pending End of FY	0	0	0	0	0
Positions/FTE 3/	0/.095	0/.12	0/.10	0/.10	0
5. Informal Written Complaints and Inquiries					
Pending Beginning of FY	816	2,203	4,461	8,375	+3,914
Receipts	7,355	7,959	8,914	9,983	+1,069
Disposals	5,968	5,701	5,000 4/	6,740	+1,740
Pending End of FY	2,203	4,461	8,375	11,618 5/	+3,243
Positions/FTE	12/11.0	12/10.6	12/10.6	14/12.6	+2/+2
6. Informal Written Comments					
Pending Beginning of FY	0	0	0	0	0
Receipts	11,617	2,103	14,000	14,000	0
Disposals	11,617	2,103	14,000	14,000	0
Pending End of FY	0	0	0	0	0
Positions/FTE	0/0.3	0/0.3	0/0.3	0/0.3	0
7. Verbal Complaints and Inquiries					
Receipts	11,026	12,452	13,400	13,400	0
Disposals	11,026	12,452	13,400	13,400	0
Positions/FTE	2/2.0	2/2.4	2/2.4	2/2.4	0

COMMON CARRIER

1/ This figure assumes approval of additional positions for FY 1991. Absent these additional resources, pending formal complaints will be even higher (i.e. over 1,100) and many more will become backlogged. We requested two additional attorneys for FY 1991 but have adjusted Position/FTE figures to account for only one position. Realistically one additional Position/FTE will be devoted to handling the increasing rulemaking workload.

2/ The 11th Circuit U.S. Court of Appeals held that the Pole Attachment Act (47 U.S.C. §224) is unconstitutional. Therefore, on the advice of the Office of General Counsel we accepted new complaints, but held pole attachment matters in abeyance until the matter was resolved. The U.S. Supreme Court reversed the 11th Circuit. We issued a public notice establishing the pleading schedule for amending complaints, answers and replies to reflect the FCC's new rules, policies and formulas. We began processing these complaints in FY 1988.

3/ One position is assigned to FOIA, Confidentiality Requests and Interlocking Directorates.

4/ It is expected that the case disposal figure will be 5,000 rather than the 5,500 figure originally projected because the volume and complexity of complaints continues to increase with no corresponding increase in staff. Complex cases require additional processing time due to status/settlement conferences, extensive legal research, and the drafting of options papers, briefing material and orders.

5/ This figure is based on approval of request for 2 additional carrier analysts. If request is not approved, figures would be as follows:

Pending beginning of FY:	8,375
Receipts:	9,983
Disposals:	5,000
Pending end of FY:	13,358
Positions/FTE	12/10.6

Tariffs	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
1. a. Tariffs filed	2178	2396	2500	2500	0
b. Tariff pages filed	171218	178972	197000	197000	0
2. Supporting Economic Data (Section 61.38)	694	777	650	650	0
3. Special Permission Applications	650	950	650	650	0
4. Positions/FTE	14/11	14/11	14/11	14/11	0/0

V. PRIVATE RADIO ACTIVITY

Analysis of Resources
(Dollars in Thousands)

Resource Requirements:	FY 1989 Actual	FY 1990 Estimate	FY 1991 Adj. to Estab. Base	FY 1991 Base	FY 1991 Programmatic Increase	FY 1991 Request
Budget Authority	$ 8,792	$ 9,745	$+ 359	$10,104	$+ 123	$10,227
Outlays	$ 8,620	$10,189	--	--	--	$10,198
FTE employment:	195	195	--	195	+3	198
Personnel by Program:	FTE	FTE	FTE	FTE	FTE	FTE
Land Mobile Services	30	28	--	28	+1	29
Authorization of Service	141	143	--	143	+1	144
Special Services	24	24	--	24	+1	25
Total	195	195	--	195	+3	198

Activity Description: The Private Radio Activity promotes the use of radio spectrum to fulfill the communications needs of businesses, state and local governments, aircraft, ships, and individuals. Over two and a half million licensees use radio to promote safety of life and property, to increase productivity, and to advance the science of telecommunications. Specific functions include evaluation of new technologies, determination of appropriate utilization levels for assigned spectrum, resolution of interference between licensees, and issuance of authorizations. The regulatory objective for these radio services is to make available to all people of the United States rapid, efficient, and orderly private radio communications.

FY 1989 Objectives/Accomplishments:

Objective: Process applications. Speeds of service will be maintained in those services that directly contribute to safety of life and property and that have no immediate authorization provisions. Second priority will be given to other radio services that contribute to the national economy. All other radio services will be licensed on a resource-permitting basis. Attempts will be made to minimize the impact on licensees as a result of long speeds of service by developing special authorization processes, consistent with the requirements of the Communications Act.

Accomplishment: The Private Radio Activity met its service goals in all radio services during FY 1989. This accomplishment attests to the emphasis the Commission has placed on providing excellent service to the public in the most efficient, uncomplicated, timely and courteous manner possible. For the workload statistics by service, see the Workload and Performance Summary.

Additionally, in continuing our attempts to minimize the impact of reduced resources on licensees, the Commission adopted a Notice of Proposed Rulemaking in PR Docket 88-567 which proposed that applicants for new stations could commence operations pursuant to temporary permit upon self-certification that certain conditions had been met, such as completion of the frequency coordination process and submission of applications to the Commission. This procedure will potentially improve service to the public by allowing an applicant filing a routine application to operate during the application processing period without compromising the Commission's statutory responsibilities.

Objective: Initiate, as first priority, rulemakings that respond to changes in statutory and treaty requirements and initiate rulemakings that relate to safety of life and property. To the extent possible, with available resources, respond to petitions for rulemakings to allow the introduction of new technologies, new services or operational options in the Private Radio Services.

Accomplishment: During FY 1989, the Activity submitted a number of agenda items to the Commission that help protect safety of life and property and that allow the introduction of new technologies, new services or operational options in the Private Radio Services. Some of the more significant items are discussed below:

- The Commission adopted a Notice of Proposed Rulemaking in PR Docket 87-213 proposing to expand trunking and intercategory sharing on an additional 150 channels above 800 MHz. Making these frequencies available for trunked as well as conventional use should improve spectrum efficiency.

- On January 30, 1989, the Commission adopted a Notice of Proposed Rulemaking in GEN Docket 89-16 to allow six frequencies in the 2310-2390 MHz band to be used by non-Government entities for the transmission of diagnostic data from commercial space launch vehicles. This proposal would eliminate regulations that impede non-Government space activities, enhance the private sector's ability to compete in the world market for launch vehicles and increase U.S. communications capabilities in space flight.

- On February 22, 1989, the Commission adopted a Memorandum Opinion and Order in GEN Docket 88-441 which concluded that a federally-mandated analog trunking standard was not needed to ensure adequate systems interoperability or equipment availability for 800 MHz public safety users. At the same time, the Commission determined that the public safety community's interests would be best served by focusing attention on the future use of advanced radio communications technologies. The Commission, therefore, decided that a Further Notice of Inquiry should be initiated to gather information and explore all matters relating to the development of advanced technologies for the public safety radio services.

- On May 31, 1989, the Commission adopted a Report and Order completely rewriting, reorganizing and deregulating the Amateur Radio Service. These rules had not undergone a complete rewrite since 1951, resulting in a patchwork of regulations that had developed in order to keep pace with advancing technologies. The new rules are flexible in their approach to the introduction of new technologies and operating practices. This should allow the Amateur Radio Service to continue to grow and help the country by providing a training ground for new communicators and engineers.

Objective: Operate an enforcement program to assure that the spectrum allocated to the Private Land Mobile and Microwave Radio Services is efficiently utilized and that licensees and applicants comply with the Commission's Rules and Regulations, with priority given to those services that directly relate to safety of life and property.

Accomplishment: The enforcement plan helps facilitate more efficient spectrum use by encouraging licensees to construct and utilize systems expeditiously. It also helps assure that our database is an accurate predictor of spectrum usage. During FY 1989, a total of 248 channels were recovered from underloaded or unconstructed 800 MHz systems and have been made available to waiting list applicants. Additionally, in the 800 MHz service, a comprehensive report was prepared containing recommendations regarding the grant or denial of waivers and appropriate compliance action for the slow growth systems evaluated previously.

Objective: Represent the safety of life and property interests, and to the extent possible, other interests of the Private Radio Activity and the public in international radio matters and appropriate conferences. Prepare inputs for: the conference to amend the Safety of Life at Sea (SOLAS) Convention, the 35th session of the International Maritime Organization's (IMO) Subcommittee on Radiocommunications, the International Telecommunications Union (ITU) Administrative Council (44th and 45th), Plenipotentiary Conference and International Radio Consultative Committee (CCIR) Final Study Group Meetings. Review results of the 1987 Mobile World Administrative Radio Conference (WARC) and the International Maritime Organization's Conference implementing the Global Maritime Distress and Safety System (GMDSS).

Accomplishment: The Activity participated in meetings of the Safety of Life at Sea Convention, the International Maritime Organization, the International Telecommunications Union, the Plenipotentiary Conference and International Radio Consultative Committee. All objectives were accomplished, including issues relating to the Mobile Satellite Service (MSS), the Global Maritime Distress and Safety System (GMDSS), and aeronautical interference. Our participation at these various meetings will facilitate the prompt introduction of new services, such as the GMDSS which will significantly improve the safety of life and property at sea. Additionally, the Commission's expeditious action implementing the certain provisions of the Final Acts of the 1987 Mobile World Administrative Radio Conference ensured that future equipment needs in the maritime and aeronautical services will meet or exceed the international standard while providing for more efficient use of the spectrum.

Other Accomplishments:

The Activity has continued to use automation to the fullest extent to maximize use of our limited resources and reduce the impact on the public. During FY 1989 this Activity's Authorization of Service Program and the Support Activity's Information Resources Program implemented a new automated Ship Application Processing System. This new method of processing provides for interactive correction and update of the database, on-line data validation and automated production of license documents as well as renewal notices. As a result of the implementation of this new computerized Ship Application Processing System, we anticipate that productivity as well as speed of service will improve. The database provided by this system allows on-line access to assist in public inquiries and is available to the Commission's field offices for use in their operations.

FY 1990/1991 Objectives:

1. Process applications. Speeds of service will be maintained in those services that directly contribute to safety of life and property and that have no immediate authorization provisions. Second priority will be given to other radio services that contribute to the national economy. All other radio services will be licensed on a resource-permitting basis. Attempts will be made to minimize the impact on licensees as a result of long speeds of service by developing special authorization processes, consistent with the requirements of the Communications Act.

2. Operate an enforcement program to assure that the spectrum allocated to the Private Radio Services is efficiently utilized and that licensees and applicants comply with the Commission's Rules and Regulations, with priority given to those services that directly relate to safety of life and property.

3. Initiate, as first priority, rulemakings that respond to changes in statutory and treaty requirements and initiate rulemakings that relate to safety of life and property. To the extent possible, with decreased resources, respond to petitions for rulemakings to allow the introduction of new technologies, new services or operational options in the Private Radio Services

4. Represent the safety of life and property interests, and to the extent possible, other interests of the Private Radio Activity and the public in international radio matters and appropriate conferences.

Justification:

$34,000 is requested to fund one FTE for an Engineer in the Authorization of Service Program. This program has experienced a dramatic increase in workload due to more complex private land mobile issues, such as the review of technical showings of short spaced systems; closer review of system proposals that have been denied by Canada; and resolution of complex engineering and interference problems. Another factor contributing to a resource deficiency has been an approximate 230% increase in rule waiver requests since FY 1987. Inability to process these waivers or the building of a backlog with resultant delays can adversely affect the entities involved. These include local governments, non-profit organizations, public safety entities (fire and police departments), small and large businesses, and land transportation organizations. An additional engineer in the Land Mobile Branch, Licensing Division is requested to process the increased workload and to avoid further lengthening the speed of service.

	FY 1990 Estimate	FY 1991 Estimate	FY 1991 Estimate + Request
Workyears	2	2	3
Waivers Pending Beginning of Year	69	179	179
Receipts	588	648	648
Disposals	478	508	574 *
Waivers Pending End of Year	179	319	253

* An experienced engineer can process approximately 92 rule waivers per year. An new engineer would be able to process approximately 65 waivers the first year, eventually processing 92 waivers per year. Even with the additional engineer, a growing backlog will result, but the rate of growth would be significantly reduced.

$34,000 is requested to fund one FTE for an Attorney in the Special Services Program. At the beginning of FY 1989 this program lost an attorney and the associate FTE in the Personal Radio Branch, Special Services Division. One of the primary duties of this position was enforcement activities related to the Amateur

Volunteer Examination Program. It is believed that the number of cases of fraud is increasing, particularly in the Novice License Volunteer Examination Program. Even with the present limited review due to current resource levels, there are approximately 200 cases of fraud per year. Not all of them, however, can be acted on in a timely manner, and many must be dropped due to lack of enforcement resources. Additionally, the cases we learn about may only be the tip of the iceberg. Because of the lack of enforcement presence, there is little to deter would-be violators, as their chances of being caught are negligible. The additional attorney position would be assigned the responsibility of handling the known cases, ferreting out others, and developing recommendations for rulemaking to resolve the problems of fraudulent examinations.

$34,000 is requested to fund one FTE for an Attorney in the Land Mobile and Microwave Program. Most of the cases in this program involve taking back frequencies that are not properly used to make then available to those who need them. These include all entities that use land mobile radio, such as local governments, non-profit organizations, public safety entities (fire and police departments), small and large businesses, and land transportation organizations. The desired goal for action on such cases is 90 days for routine cases and 180 days for complex cases.

The inability to act on these takeback cases or the building of a backlog with resultant delays in action adversely affects those entities in need of new radio channels. In the case of public safety, safety of life and property may be adversely affected. Businesses may be forced to operate without radio equipment that would make them more efficient and thus more competitive domestically and internationally. As shown by the chart below, an additional attorney in the Compliance Branch, Land Mobile and Microwave Division can process approximately 40 cases per year. While this still results in a building backlog, the rate of growth is significantly reduced.

	FY 1990 Estimate	FY 1991 Estimate	FY 1991 Estimate + Request
Workyears	4	4	5
Cases Pending Beginning of Year	182	242	242
Receipts	220	220	220
Disposals	160	160	200
Cases Pending End of Year	242	302	262

$15,000 is requested to fund one computer and scientific software for the Authorization of Service Program. This computer will be used in the Licensing Division to perform the following functions:

- The computer will be used to perform engineering analyses and co-channel interference studies for Public Coast VHF applications for new and modified station licenses. These calculations are currently done manually requiring inordinate amounts of time. For example, interference studies, when calculated by hand, require from 4 to 6 hours each. With the use of a computer this calculation time can be reduced to approximately 1 hour per study.

- The computer will be used to perform frequency allocation management for the Aeronautical Advisory service stations. As a result of the Commission's rewrite of the aviation rules, the Licensing Division must reallocate Aeronautical Advisory frequencies throughout the nation. This highly complex operation involves dramatically reconfiguring frequency assignments to approximately 8,500 stations to provide the best geographical separation between stations, and thus, minimal interference to communications critical to flight safety. This work directly affects air safety, especially in heavily populated areas, and lack of adequate automation resources could result in numerous cases of missed transmissions resulting in hazardous avigation conditions.

Additionally, the Licensing Division routinely performs frequency management for the Aeronautical Advisory Services, so as to preclude harmful interference and congestion of frequencies. With only a limited number of frequencies and greater air traffic in the more populated areas where there are several airports, it is imperative to limit congestion and interference for the safe and expeditious operation of aircraft. This workload averages 50 to 60 applications per week and is accomplished manually. Use of automation equipment will result in quicker and more accurate determinations, enhancing air safety for the flying public.

- The computer will be used to perform range analyses in the Aeronautical Enroute service as required by our agreement with Canada. Slant range calculations are completed based on average operational altitude of air carrier aircraft when operating in domestic air routes. These analyses are required to limit harmful interference to Canadian stations operating in the same frequency band. As with Aeronautical Advisory stations, use of automation will improve accuracy and speed of service.

$6,000 is requested to fund one computer and software for all the Programs in the Private Radio Activity. The computer will be used to automate the myriad of management information systems which are currently maintained manually within all the programs. These management information systems involve strategic planning, financial management and program evaluation. The requested hardware and software will be used to develop and update these reports easily and quickly, thereby maximizing staff resources and dramatically improving the timeliness and quality of the information provided. This will enable managers to improve the use of existing resources better and to plan for more efficient operations.

The computer will also be used to perform complex technical and economic analyses in support of the Activity's rulemakings and propagation studies. Additionally, it will enable the Land Mobile and Microwave and Special Services Divisions to conduct international analyses and spectrum management in a more efficient, expeditious manner. The capability to perform these complex analyses quickly and accurately is crucial to the effective operation of this Activity due to the need to respond to inquiries or requests from the public, OMB and Congress in a timely manner.

WORKLOAD AND PERFORMANCE SUMMARY
Private Radio Activity

	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
Aviation					
Aircraft					
Pending beginning of year	80	302	360	760	+ 400
Received	39,490	43,158	44,000	44,000	-
Disposed	39,268	43,100	43,600	43,830	+ 230
Pending end of year	302	360	760	930	+ 170
Speed of Service	21	27	30-40	30-40	-
Ground					
Pending beginning of year	650	864	742	992	+ 250
Received	5,523	5,379	5,750	5,800	+ 50
Disposed	5,309	5,501	5,500	5,670	+ 170
Pending end of year	864	742	992	1,122	+ 130
Speed of Service	55	58	60-70	60-70	-
Total Positions/Workyears	6/6	6/6	6/6	6/6	-/-
Marine					
Ship					
Pending beginning of year	3,580	3,006	11,030	5,030	- 6,000
Received	147,516	162,108	165,000	168,000	+ 3,000
Disposed	148,090	154,084	171,000	167,970	- 3,030
Pending end of year	3,006	11,030	5,030	5,060	+ 30
Speed of Service	30	35	25-35	25-35	-

	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
Coast					
Pending beginning of year	290	320	599	779	+ 180
Received	4,160	4,092	4,000	4,100	+ 100
Disposed	4,130	3,813	3,820	3,920	+ 100
Pending end of year	320	599	779	959	+ 180
Speed of Service	31	35	30-40	30-40	-
Total Positions/Workyears	11/11	10/11	10/9	10/9	-/-
Land Mobile					
Public Safety					
Pending beginning of year	1,230	2,048	631	2,601	+ 1,970
Received	54,096	51,810	54,000	56,000	+ 2,000
Disposed	53,278	53,227	52,030	52,770	+ 740
Pending end of year	2,048	631	2,601	5,831	+ 3,230
Speed of Service	25	27	30-40	30-40	-
Land Transportation					
Pending beginning of year	240	447	173	333	+ 160
Received	9,937	11,279	9,400	9,450	+ 50
Disposed	9,730	11,553	9,240	9,260	+ 20
Pending end of year	447	173	333	523	+ 190
Speed of Service	24	27	30-40	30-40	-
Business					
Pending beginning of year	3,910	5,798	2,629	1,539	- 1,090
Received	129,206	125,916	128,000	128,200	+ 200
Disposed	127,318	129,085	129,090	128,080	- 1,010
Pending end of year	5,798	2,629	1,539	1,659	+ 120
Speed of Service	25	27	30-40	30-40	-

	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
Industrial					
Pending beginning of year	1,420	1,988	1,192	1,192	-
Received	55,415	53,857	52,500	53,000	+ 500
Disposed	54,847	54,653	52,500	52,930	+ 430
Pending end of year	1,988	1,192	1,192	1,262	+ 70
Speed of Service	25	27	30-40	30-40	-
470-512 MHz					
Pending beginning of year	170	331	278	408	+ 130
Received	5,480	4,316	4,500	4,700	+ 200
Disposed	5,319	4,369	4,370	4,680	+ 310
Pending end of year	331	278	408	428	+ 20
Speed of Service	24	27	30-40	30-40	-
800 MHz					
Pending beginning of year	8,680	6,939	7,727	7,247	- 480
Received	76,174	76,219	78,000	80,000	+ 2,000
Disposed	77,915	75,431	78,480	79,920	+ 1,440
Pending end of year	6,939	7,727	7,247	7,327	+ 80
Speed of Service	30	39	40-50	40-50	-
900 MHz					
Pending beginning of year	3,030	1,674	1,524	5,124	+ 3,600
Received	3,051	6,871	27,000 *	18,000	- 9,000
Disposed	4,407	7,021	23,400	18,000	- 5,400
Pending end of year	1,674	1,524	5,124	5,124	-
Speed of Service	30	39	40-50	40-50	-
Total Positions/Workyears	107/102	92/94	92/97	94/98	+2/+1

* Initially 900 MHz channels were released only in the top 50 metropolitan areas (Phase I). Applications for these channels totalled in excess of 60,000. During FY 1990, these channels will likely be released throughout the remainder of the country (Phase II). This should cause considerable interest in licensing, resulting in dramatic increases in receipt of applications. These applications may also be more complex, as mutually exclusive requests will require time to isolate and resolve.

	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
Microwave					
Pending beginning of year	1,220	1,843	2,963	2,863	- 100
Received	9,879	11,463	11,500	11,500	-
Disposed	9,256	10,343	11,600	11,550	- 50
Pending end of year	1,843	2,963	2,863	2,813	- 50
Speed of Service	49	53	55-65	55-65	-
Total Positions/Workyears	14/13	12/12	12/13	12/13	-/-
General Mobile					
Pending beginning of year	150	77	102	372	+ 270
Received	6,077	5,751	6,000	6,000	-
Disposed	6,150	5,726	5,730	5,890	+ 160
Pending end of year	77	102	372	482	+ 110
Speed of Service	18	20	20-30	20-30	-
Total Positions/Workyears	2/2	2/2	2/2	2/2	-/-
Amateur					
Pending beginning of year	5,450	1,669	4,439	3,139	- 1,300
Received	137,414	95,079	97,000	98,000	+ 1,000
Disposed	141,195	92,309	98,300	97,980	- 320
Pending end of year	1,669	4,439	3,139	3,159	+ 20
Speed of Service	19	17	20-30	20-30	-
Total Positions/Workyears	8/8	8/6	8/6	8/6	-/-

PRIVATE RADIO

	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
Restricted Permits					
Pending beginning of year	150	567	819	1,019	+ 200
Received	118,530	118,078	110,000	105,000	- 5,000
Disposed	118,113	117,826	109,800	104,940	- 4,860
Pending end of year	567	819	1,019	1,079	+ 60
Speed of Service	17	17	20-30	20-30	-
Total Positions/Workyears	3/2	2/3	2/3	2/3	-/-
Summary					
Pending beginning of year	30,250	27,873	35,208	33,398	- 1,810
Received	801,948	775,376	796,650	791,750	- 4,900
Disposed	804,325	768,041	798,460	787,390	-11,070
Pending end of year	27,873	35,208	33,398	37,758	+ 4.360
Total Positions/Workyears	151/144	132/134	132/136	134/137	+2/+1

PRIVATE RADIO

VI. FIELD OPERATIONS ACTIVITY

Analysis of Resources
(Dollars in Thousands)

Resource Requirements:	FY 1989 Actual	FY 1990 Estimate	FY 1991 Adj. to Estab. Base	FY 1991 Base	FY 1991 Programmatic Increase	FY 1991 Request
Budget Authority	$20,643	$21,329	$+ 379	$21,708	$ + 743	$22,451
Outlays	$20,395	$22,464	--	--	--	$22,385
FTE employment:	388	380	--	380	+ 5	385
Personnel by Program:	FTE	FTE	FTE	FTE	FTE	FTE
Monitoring	127	126	--	126	--	126
Inspections/Investigations	104	105	--	105	+ 2	107
Public Service	108	105	--	105	--	105
Engineering	49	44	--	44	+ 3	47
Total	388	380	--	380	+ 5	385

Activity Description: The Field Operations Activity promotes effective, efficient, legal use of the radio spectrum throughout the United States and Puerto Rico. Employees interface locally with the public to provide information to spectrum users concerning Commission rules, regulations and communications law, and to resolve radio interference and other technical problems relating to propagation, spurious emissions, etc. Operating from 35 field offices, the Activity also provides feedback to the Commission from the grass roots on technical matters or regulatory impact of various rules and regulations. Additionally, the Activity performs off-the-air technical measurements, regulates antenna structure lighting and marking to promote aviation safety, and licenses commercial radio operators and repair technicians. The Activity provides the Commission's general field service role.

FY 1989 Objectives/Accomplishments:

Objective: Assure the usefulness of radio in preserving safety of life. This objective has two aspects: locating the source of distress transmissions when a disaster occurs and clearing safety frequencies of signals which would interfere with reception of distress transmissions.

Accomplishments: Responded on-scene to 200 requests for assistance in life-threatening situations and provided direction-finding fixes in 100 additional such situations. Performed 2,000 ship inspections. Responded to 1,250 instances of interference to police, fire, ambulance, etc. Participated in the Interagency Committee on Search and Rescue (ICSAR) to find methods of improving communications capability for responding to emergencies. Chaired the working group charged with reducing the number of accidentally triggered Emergency Locator Transmitters (ELT). Continued the development and evaluation of a monitor which will indicate to a pilot that their ELT has been triggered. Continued development of an ELT monitor for small air fields. Responded to 50 reports of tower light outages and insured appropriate lighting was reinstated by FCC licensees. Provided support for the launch and landing of Space Shuttle Discovery. Investigated the crash of a helicopter into an unlighted cellular radio tower. Resolved incidents of jamming of the tower frequency at the Philadelphia International Airport by using new FCC-developed transmitter fingerprinting technology to successfully locate source of jamming.

Objective: Collect, analyze, and provide to other Commission entities and the International Telecommunication Union (ITU) information on the state of the spectrum, including new technologies, for use in policy and rulemaking decisions.

Accomplishment: Examined the status of the Emergency Broadcast System by inspecting 108 stations (20% of the total). Provided information on notable and/or frequent violations to the Mass Media Activity by inspecting 235 broadcast stations and 241 cable television systems. Continued to develop and refine procedures for addressing problems in the satellite services. Provided quarterly reports on satellite transponder loading. Maintained the database on Cuban broadcast stations in support of the Radio Broadcasting to Cuba Act. Participated in an ITU sponsored exercise to identify sources of interference to high frequency broadcasting.

Objective: Enhance field efficiency and effectiveness and improve the level of responsiveness to those needing our assistance. Inform, educate, and respond to public and licensees' telecommunications concerns.

Accomplishment: Continued a program to improve the accuracy of the high-frequency (hf) direction-finding net. Further developed techniques for identification of transmitters by their unique spectral characteristics. Continued to pursue implementation of an automatic transmitter identification system (ATIS) to facilitate identification of interference sources to satellite and other radio services. Responded to approximately 46,170 complaints of interference and approximately 364,500 inquiries. Appeared before marine groups, land mobile user groups, public user groups, etc. to disseminate information on interference avoidance and resolution.

Objective: Reduce and/or prevent radio frequency (RF) interference through education, on-site resolution, and review of product marketing and the importation of radio devices.

Accomplishment: In coordination with the Electronic Industry Association, developed an electrical interference training module for service representatives. In cooperation with the U.S. Customs Service, visited Customs' offices to examine import documentation (FCC Form 740) for devices capable of producing radio interference. Investigated 377 cases of suspected marketing violations. Responded on-scene 1,860 times and off-the-air 785 times to problems which could not be resolved through non-enforcement means.

Objective: Require marking and lighting of radio towers as necessary to promote aviation safety.

Accomplishment: Processed 23,635 applications for marking and lighting specifications.

Objective: Conduct radio operator license examinations as required by law and treaty and issue licenses to qualified applicants.

Accomplishment: Received 33,166 applications for new or renewed commercial operator licenses which resulted in the issuance of 31,364 commercial licenses.

Objective: Support effective field enforcement and public service by providing field staff with state-of-the-art engineering guidance, standards and measurement techniques. Foster improved communications services to the public by providing engineering expertise and project overview of developmental measurement programs.

Accomplishment: Continued use and development of the prototype Fixed Automatic Direction-Finding (FADF) system. Equipped 15 vehicles with this state-of-the-art investigative/monitoring system.

Other Accomplishments:

1. Provided 1,473 high frequency (hf) direction-finding fixes to the U.S. Coast Guard and 236 to the U.S. Customs Service.

FIELD OPERATIONS

2. Obtained an injunction against broadcasting by the vessel "Sarah" and shut down broadcasts from south Florida by "Alpha 66" through a continuing program to identify and end intruders into the spectrum.

3. Continued liaison with the Amateur Auxiliary -- a volunteer amateur radio operator organization --for resolution of problems by amateurs within their own community.

4. Maintained liaison with Canada and Mexico for resolution of interference problems at the borders and/or other forms of mutual assistance and cooperation.

5. Participated in the ITU fellowship program assisting 60 international fellows.

6. Participated in developing the U.S. position on radio operators and radio maintainers for the 1988 Global Maritime Distress and Safety System Conference and the 1989 ITU Plenipotentiary Conference. The issue was then placed on the agenda for the 1992 World Administrative Radio Conference.

FY 1990/1991 Activity Objectives

1. Assure the usefulness of radio in preserving safety of life. This objective has two aspects: locating the source of distress transmissions when a disaster occurs and clearing safety frequencies of signals which would interfere with reception of distress transmissions.

2. Collect, analyze, and provide to other Commission entities information on the state of the spectrum, including new technologies, for use in their policy and rulemaking decisions.

3. Enhance field efficiency and effectiveness and improve the level of responsiveness to those needing our assistance. Inform, educate, and respond to the public's and licensee's telecommunications concerns.

4. Reduce and/or prevent radio frequency (RF) interference through education, on-site resolution, and review of product marketing and the importation of radio devices.

5. Require marking and lighting of radio towers as necessary to promote aviation safety.

6. Conduct radio operator license examinations as required by law and treaty and issue licenses to qualified applicants.

7. Support effective field enforcement and public service by providing field staff with state-of-the-art engineering guidance, standards and measurement techniques. Foster improved communications services to the public by providing engineering expertise and project overview of developmental measurement programs.

FIELD OPERATIONS

Justification

$326,000 is requested to provide new and replacement technical equipment. This includes: replacing 11 VHF/UHF receivers for fixed and mobile use; replacing three high frequency transmitters; installing six remotely controlled monitoring sites. These equipment requirements are based on a ten-year Technical Equipment Spending Plan developed by Field Operations personnel which provides a viable plan to replace, purchase, and maintain the equipment required to accomplish the mission of the Activity. The plan provides a list of incremental requirements which can be addressed as funds become available and details the equipment required for basic mission accomplishment in order to maintain existing capabilities as well as to meet the growth of the telecommunications industry. The VHF/UHF receivers will replace obsolete, failure prone units at fixed monitoring sites and in mobile direction finding vehicles. The high frequency transmitters are needed to restore the backup radioteletype network connecting the long range direction finder sites and provide continuing communications during outages of the commercial teletype network. The remotely controlled monitoring sites will provide FCC presence in areas remote from field office locations where there is a high incidence of interference problems and will allow resolution of these problems with minimal expenditure of staff time and travel funds.

$132,000 is requested to fund 5 FTEs. These funds will provide personnel support critical to the effectiveness of the bureau. They include an engineer in Atlanta and Denver to investigate 275 marketing cases and reduce the availability of unauthorized rf devices, an engineer in Equipment Standards Branch to provide measurement standards and techniques to assist field staff in resolving difficult measurement problems, and two technicians in the Equipment Construction and Installation Branch to outfit vehicles with direction finder systems and other measurement equipment.

$63,000 is requested to fund required travel to enhance all Bureau activities including enforcement and public service activity. Much of the area served by our offices require that staff be placed in travel status to perform the investigations, broadcast inspections, etc. The additional funding will reduce the length of time to respond to particular cases and increase the number of cases which can be completed by allowing more frequent trips.

$122,000 is requested to purchase 6 sedans and four-wheel drive vehicles ($110,000) capable of mobile automatic direction-finding (MADF) and travel ($12,000) for staff to accept delivery of completed vehicles and receive training in MADF use. The Activity has been unable to replace those vehicles which have been used beyond their normal lifespan for the last four years. The MADF is the workhorse of our field activity. It is essential for resolving interference problems. The replacement cycle for the 90 vehicles owned and operated by the bureau is already far longer than GSA guidelines allow for efficient utilization. Due to the lag time in procuring and equipping vehicles, the need for these vehicles must be addressed in FY 1991 to make up for past deficiencies, arrest deterioration of the fleet, and prevent major negative impact to the bureau's already diminished enforcement capabilities.

$100,000 is requested for infrastructure repairs. These include: at the Anchorage office, **$30,000 to repave the parking area and roadway damaged by freezing**; at the Belfast office, **$45,000 to repave the deteriorated roadway; at the Kingsville and Grand Island monitoring stations, $25,000 to replace wooden windows damaged by rot and pest infestation with energy efficient windows.** Failure to make these repairs will have the same adverse consequences as delaying needed repairs at a residence. Aside from aesthetics, continued development of potholes in the roadways can result in damage to Government-owned vehicles and those of visitors, as well as the concomitant loss of the use of the vehicles while being repaired. With continued deterioration of the windows, they will no longer be weather-tight. This will result in water damage to interior walls and floors and increased use of energy for heating and cooling.

VII. ENGINEERING & TECHNOLOGY ACTIVITY

Analysis of Resources
(Dollars in Thousands)

Resource Requirements:	FY 1989 Actual	FY 1990 Estimate	FY 1991 Adj. to Estab. Base	FY 1991 Base	FY 1991 Programmatic Increase	FY 1991 Request
Budget Authority	$ 5,841	$ 6,439	$+200	$ 6,639	$+ 769	$ 7,408
Outlays	$ 5,751	$ 6.736	--	--	--	$ 7,351
FTE employment:	90	87	--	87	+ 4	91
Personnel by Program:	FTE	FTE	FTE	FTE	FTE	FTE
Technical Analysis	13	12	--	12	+2	14
Internat. Telecomm. Pol.	11	10	--	10	--	10
National Spectrum Mgmt.	21	20	--	20	+2	22
Equipment Std. & Approval	43	43	--	43	--	43
Technology Planning	2	2	--	2	--	2
Total	90	87	--	87	+4	91

Activity Description: The Engineering and Technology Activity provides the Commission with the technical basis for regulation of the radio spectrum. The Activity provides technical advice and support to the Commission and operating bureaus concerning the allocation, assignment, and compatibility of uses of the electromagnetic spectrum. The Engineering and Technology Activity is involved with the domestic allocation and use of radio frequencies in the public interest and is responsible for developing technical standards for equipment licensed in the radio services, as well as for authorizing types of equipment that may be used in the various radio services. The Activity is responsible for planning for future uses of the spectrum, for keeping abreast of new technological developments that will have an impact on the FCC, and for authorizing experimental uses of the radio spectrum. Responsibilities of the Activity also include the overall management of the international radio regulations and the domestic implementation of those regulations.

FY 1989 Objectives/Accomplishments:

Objective: Promote the development and availability of new technology and new services by responding promptly to petitions for rulemaking. Provide expertise to the Commission staff on spectrum utilization matters arising from implementation of new services and technologies. Review existing FCC regulations to determine which standards enhance innovation and identify those that are overly restrictive. Initiate changes, as appropriate, to promote increased efficiency in spectrum allocation and use.

Accomplishment: Notices were issued on petitions for rulemaking or as a result of staff review as follows: Docket No. 88-566, proposing allocation for vehicle recovery systems; Docket No. 89-44, proposing a new procedure for measuring electromagnetic emissions from certain computing devices; Docket No. 89-116, proposing a new procedure for measuring electromagnetic emissions from intentional radiators above 30 MHz operating under Part 15; Docket No. 89-117, proposing a new procedure for measuring electromagnetic emissions from unintentional radiators above 30 MHz operating under Part 15; Docket No. 89-118, proposing a new procedure for measuring electromagnetic emissions for remote control and security devices operating under Part 15; and Docket No. 87-389, proposing revised rules for spread spectrum systems regulated under Part 15. Orders were adopted on the following rulemakings: Docket No. 88-566, adopting service rules for stolen vehicle recovery systems; Docket No. 88-550, amending the 2700-2900 MHz band allocation to accommodate the Government Next Generation Weather Radar (NEXRAD) system; Docket No. 88-476, approving New York regional public safety plan; Docket No. 88-549, accepting North Central and North East Texas regional public safety plan; and Docket No. 87-389, finalizing many of the proposals to revise Part 15 to reduce the regulatory burden on the public.

A number of actions were also prepared in response to petitions for reconsideration or clarification of earlier Commission decisions. Of particular significance were: Docket No. 87-14, affirming changes to the frequency allocations for the amateur and land mobile services in the 216-225 MHz band; Docket No. 84-1234, affirming frequency allocations for mobile satellite services in the 1500-1600 MHz region; and Docket No. 87-390, clarifying the expanded flexibility options for cellular service relative to fixed telephone service. The staff also reviewed numerous Orders and Notices dealing with spectrum utilization matters, providing advice to the Commission and other offices.

Objective: Process equipment authorizations and experimental applications as accurately and timely as possible. Act on 90 percent of equipment authorization applications within 60 days. Process experimental license applications within 75 days for items not requiring interagency coordination.

Accomplishment: 6,189 applications for equipment authorization were received and 6,138 applications were processed. 90 percent of equipment authorization applications were acted on within 45 days. The average processing time for experimental applications not requiring interagency coordination was 59 days; 662 applications for new or renewal authorizations were received and 745 were processed.

Objective: Supply radio propagation information and other technical analyses and information necessary for rulemakings to minimize harmful interference among users of the spectrum and permit an expanded number of radio users into the marketplace with minimum constraints overall.

Accomplishment: Several studies were carried out related to spectrum availability for high definition television (HDTV), and a report summarizing the results of these studies was released by the Commission. The HDTV studies included an investigation to determine how "repacking" of the present television frequency assignments would affect the availability of spectrum for Advanced Television (ATV) augmentation channels.

Data were collected and analyzed on electronic tuner technology for 1985-1987 model television receivers and Videocassette Recorders (VCRs). The analysis will be useful in assessing the impact of using UHF-TV channels for HDTV augmentation signals. An analysis of observer variability in studies of UHF-TV receiver taboo performance and other characteristics was also completed.

A VHF/UHF propagation data base was developed as an essential step in the development of an improved propagation model for the FM and TV broadcast services, which would take terrain and other factors into consideration.

Technical assistance was provided to other activities on the following: Carried out eight studies to evaluate the effect of anomalous terrain on the coverage or interference potential of proposed new FM stations or proposed changes in the facilities of existing FM stations. Investigated the use of a new kind of antenna for AM broadcast with respect to efficiency and interference potential. Investigated the potential interference to FCC-licensed TV stations from the proposed TV-Marti operation in southern Florida. Provided technical portions of Docket Nos. 88-508 and 88-510, which proposed adoption of improved methods for calculating groundwave and skywave field strength in the AM broadcast service. Analyzed the potential interference to aviation receivers aboard aircraft of various other signals.

Objective: Analyze new telecommunications and related technologies for impact on the U.S. telecommunications systems and identify regulatory issues for Commission action. Advise the Commission and bureaus/offices on technological developments and recommend actions to enable the public and industry to benefit from those technological advances with minimum marketplace constraints. Provide information on the possible hazardous effects of microwave and radiofrequency radiation from devices regulated by the Commission.

Accomplishment: Analytical reports examining new telecommunications and related technologies were completed and recommendations made on the following: the current state of the Mobile Satellite Service (MSS) in the L-Band, including developments throughout industry, government, and the international community; the state of MSS in the United States, including history of the services, spectrum issues, participants in the growth of the service, conclusions, and projections for the future; the current state of digital technology as it applies to various forms of telecommunications; the emergence of fiber optics, covering areas such as background, standards of measurement, regulation, and conclusions; the Frequency Division Multiple Access (FDMA) technique for cellular radio compared with the Time Division Multiple Access (TDMA) technique; the current state of Integrated Services Digital Networks (ISDN); and the current state of High Definition Television (HDTV), including comparisons of present, proposed, domestic, and international systems.

A Report and Order was completed in Docket No. 88-469, to establish procedures for evaluating environmental radiofrequency (RF) radiation at multiple-transmitter sites. Guidelines for measuring intense, localized, electromagnetic fields were also developed and discussed in the Order. The joint FCC/EPA interagency agreement was renewed and efforts were made to complete a joint study of RF fields near AM broadcast stations. Plans were developed for further studies of exposure of persons working on transmitting AM broadcast towers. A contractor study on RF fields near AM stations was completed and released. Actions were taken to evaluate and propose solutions for various specific environmental problems, including several broadcast antenna farms and other situations involving exposure of the public or workers to RF energy.

Objective: Protect and promote U.S. interests by coordinating proposed domestic and foreign frequency assignments with affected countries. Protect U.S. frequency assignments by notifying information to the ITU for international registration of space and terrestrial assignments and resolving interference cases as they arise.

Accomplishment: 109 terrestrial coordination actions were undertaken with foreign administrations in FY 1989. 2,973 terrestrial stations were notified to the ITU. 10 space service notifications were made and 122 other actions concerning space networks were taken either in respect to furthering U.S. networks or providing required responses to a foreign network. The staff successfully handled 162 new or re-opened interference cases, among which were several difficult cases involving Cuban interference to U.S. AM broadcasting stations.

Objective: Provide expertise to the Commission on technical standards. Represent the Commission by participating in national and international standards activities. Provide advice and assistance on technical standards and technology-oriented rules and regulations in order to minimize regulation, consistent with efficient and effective spectrum utilization.

Accomplishment: Comments and advice regarding technical standards were provided to other FCC Bureaus/Offices on the following items: technical regulations for Emergency Position Indicating Radiobeacons (EPIRBs); technical standards for amateur radio; and the Commission's registration program involving equipment connected to the switched telephone network.

In support of Docket No. 87-552, which proposes to relax the equipment authorization for broadcast transmitters, testing of several low power TV and other broadcast transmitters was conducted, and an evaluation of notification reports was performed.

ENGINEERING AND TECHNOLOGY

The Commission's list of private test sites for equipment authorization was updated each month. 150 new test site descriptions filed under Section 15.38 of the rules were reviewed for compliance with technical standards. Approximately one-half of the submittals required letters requesting additional information.

Objective: Develop analytical models, technical procedures, computer programs and data bases needed to improve the internal productivity of the Commission and help further the Commission's regulatory objectives.

Accomplishment: Several computerized frequency assignment algorithms were developed for use in evaluating spectrum availability for High Definition Television (HDTV).

Computer runs were made of the CABAL drop-in programs for the Mass Media Activity for the purpose of determining if previously approved Cable TV frequencies would conflict with "dropped-in" Federal Aviation Administration (FAA) stations.

Objective: Promote U.S. international telecommunications interests concerning the development of telecommunications regulations by attending preparatory meetings, preparing U.S. proposals and positions, and participating actively in international meetings and conferences. Supply technical assistance and analysis to support the development of U.S. negotiation positions regarding international telecommunications matters. Provide expertise to the Commission and staff on matters of international spectrum/orbit usage; international agreements, regulations and procedures; and other international telecommunications matters. Provide for domestic implementation of international agreements.

Accomplishment: Provided technical support to the Chairman in accomplishing objectives for the International Telecommunication Union (ITU) Plenipotentiary Conference, which was held in Nice, France. Prepared position papers and served as U.S. Delegate at the Conference.

Led U.S. preparations and served as Co-Chairman at meetings of the Radio Technical Liaison Committee with Canada. The meetings included discussions of use of the 900 MHz spectrum designated for public safety, HDTV activities, and cellular and paging agreements.

Participated in the International Radio Consultative Committee (CCIR) Study Group (SG)-5, on propagation aspects of terrestrial mobile and broadcast services; in CCIR SG-6 related to technical aspects of radio propagation; in CCIR IWP 1/2, regarding data format standards for automated notification of frequency assignments to and from the International Frequency Registration Board (IFRB); and in CCIR IWP 8/13, dealing with future public land mobile communications systems. Various documents were prepared and reviewed in preparation for meetings of these groups.

Participated as International Secretary to the International Special Committee on Radio Interference (CISPR) Subcommittee A Meeting in Copenhagen, dealing with measurement instrumentation and methodology. Various documents were prepared and reviewed in preparation for this meeting.

Objective: Coordinate with the National Telecommunications and Information Administration (NTIA) on the development of national telecommunications policies, on frequency allocation matters, and on frequency assignments of mutual concern.

ENGINEERING AND TECHNOLOGY

Accomplishment: The Activity provided FCC representation on the Interdepartment Radio Advisory Committee (IRAC), chaired by NTIA, which considered 312 telecommunication items. Representation was also provided on the Spectrum Planning Subcommittee of IRAC, which considered 411 items covering 43 proposed telecommunications systems, and on the Frequency Assignment Subcommittee of IRAC, where 94,965 frequency authorization requests from federal government agencies and 2,437 frequency authorization requests from the private sector were reviewed and coordinated. Additionally, FCC representation was provided on 14 Ad Hoc Groups within the IRAC. The staff maintained routine contact with spectrum management officials of NTIA to exchange views on telecommunication matters, such as: policies concerning the development and implementation of mobile satellite services; allocations for stolen vehicle recovery systems; establishment of service and technical rules for government and non-government fixed service bands; allocation for Emergency Position Indicating Radiobeacons (EPIRBs) distress alerting and search and rescue functions; revision of the rules concerning Industrial, Scientific and Medical (ISM) equipment; and matters regarding the U.S. position concerning the schedule of future international radio conferences.

Objective: Perform sample testing of radio frequency devices subject to equipment authorization, including testing of a sufficient number of notified and verified devices to ensure the viability of the equipment authorization program. Provide support for follow-up of marketing violations by sample testing equipment as required.

Accomplishment: Pre-grant sampling in FY 1989 continued to focus on the testing of personal computers, due to the high failure rate of these devices and to evaluate and gain experience in implementing a proposed new test procedure for computing devices. By the end of the fiscal year, the compliance rate for these devices had improved from 72% at the end of FY 1988 to a compliance rate of 80%, indicating a further improvement in the capability of private testing laboratories to conduct proper measurements.

Post-grant sampling projects included: remote control and security devices, a video transmitter, a closed circuit TV camera, an amateur transceiver, broadcast transmitters, computers, EPIRBs, Emergency Locator Transmitters , telephones, epilators, real estate transmitters, a rodent repeller, a baby monitor, and an auto alarm transmitter and receiver. Projects were initiated at the request of the Field Operations and Common Carrier Activities, and other Commission offices, as well as by the staff. Several recommendations for issuance of Notices of Apparent Liability (NALs) were forwarded to the Field Operations Activity as a result of the testing accomplished.

Objective: Maintain and calibrate technical equipment for the Laboratory Facility and other Commission activities. Design, develop, and construct unique equipment for the Commission as required.

Accomplishment: 76 pieces of equipment were calibrated and/or repaired for the Field Operations Activity, and 80 laboratory instruments were calibrated and/or repaired. All equipment was repaired or calibrated in a timely manner.

Other Accomplishments:

Several tutorials were presented to the FCC staff and the public concerning technology developments. These included tutorials on "The Future of Fiber Optics in Communications", Digital Television", and "The Future of CT-2 Personal Mobile Communications". In addition, papers and speeches were prepared covering a variety of spectrum management topics and were published in professional journals or presented by the staff at various conferences. These included journals and conferences of: International Security Convention; National Communications System; Association of Federal Communications Consulting Engineers; Land Mobile Communications Council; Institute of Electrical and Electronic Engineers; Bioelectromagnetics Society; and Associated Public Safety Communications Officers, Inc.

WORKLOAD AND PERFORMANCE SUMMARY
Office of Engineering and Technology

	FY 1988 Actual	FY 1989* Actual	FY 1990 Estimate	FY 1991 Estimate	Change FY 1991 Over FY 1990
1. Equipment Authorizations					
a. Applications received	8,882	6,189	6,300	6,600	+300
b. Applications granted	6,839	5,512	5,700	5,700	0
c. Applications processed	8,610	6,138	6,200	6,200	0
d. Speed of Service (days)	50	45	55	55	0
Total Workyears	10.0	9.0	9.0	9.0	0

* Effective February 21, 1989, a relaxation of the Commission's Rules in Docket 87-212, eliminated the requirement for filing of multiple applications for equipment authorization for identical equipment with different trade names, and for identical equipment manufactured by one grantee with multiple manufacturing sources. An estimated 1,000 applications filed annually for equipment authorization will no longer be required due to these rule changes. In addition, since notification of manufacturing source is no longer required, assignment of manufacturer codes is no longer a part of the equipment authorization program. Due to these changes, Engineering and Technology Activity is responsible only for the assignment of grantee codes required on an application for Part 68 telephone registration. Since this does not constitute complete administrative processing of these applications, the statistics for registration (approximately 1,800 applications annually) will no longer be reported as part of the equipment authorization program. While the total reduction in applications processed is expected to be

approximately 2,800 applications annually, a commensurate reduction in work years required is not anticipated since the applications eliminated required little work per application while the applications that will continue to be received will require a complete administrative and technical review prior to disposition.

FY 1990/1991 Activity Objectives:

1. Promote the development and availability of new technology and new services by responding promptly to petitions for rulemaking. Provide expertise to the Commission staff on spectrum utilization matters arising from implementation of new services and technologies. Review existing FCC regulations to determine which standards enhance innovation and identify those that are overly restrictive. Initiate changes, as appropriate, to promote increased efficiency in spectrum allocation and use.

2. Process equipment authorizations and experimental applications as accurately and timely as possible. Act on 90 percent of equipment authorization applications within 60 days. Process experimental license applications within 75 days for items not requiring interagency coordination.

3. Supply radio propagation information and other technical analyses and information necessary for rulemakings to minimize harmful interference among users of the spectrum and permit an expanded number of radio users into the marketplace with minimum constraints overall.

4. Analyze new telecommunications and related technologies for impact on the U.S. telecommunications systems and identify regulatory issues for Commission action. Advise the Commission and bureaus/offices on technological developments and recommend actions to enable the public and industry to benefit from those technological advances with minimum marketplace constraints. Provide information on the possible hazardous effects of microwave and radiofrequency radiation from devices regulated by the Commission.

5. Protect and promote U.S. interests by coordinating proposed domestic and foreign frequency assignments with affected countries. Protect U.S. frequency assignments by notifying information to the ITU for international registration of space and terrestrial assignments and resolving interference cases as they arise.

6. Provide expertise to the Commission on technical standards. Represent the Commission by participating in national and international standards activities. Provide advice and assistance on technical standards and technology-oriented rules and regulations in order to minimize regulation, consistent with efficient and effective spectrum utilization.

7. Promote U.S. international telecommunications interests concerning the development of telecommunications regulations by attending preparatory meetings, preparing U.S. proposals and positions, and participating actively in international meetings and conferences. Supply technical assistance and analysis to support the development of U.S. negotiation positions regarding international telecommunications matters. Provide expertise to the Commission and staff on matters of international spectrum/orbit usage; international agreements, regulations and procedures; and other international telecommunications matters. Provide for domestic implementation of international agreements.

8. Coordinate with NTIA on the development of national telecommunications policies, on frequency allocation matters, and on frequency assignments of mutual concern.

9. Perform sample testing of radio frequency devices subject to equipment authorization, including testing of a sufficient number of notified and verified devices to ensure the viability of the equipment authorization program. Provide support for follow-up of marketing violations by sample testing equipment as required.

Justification

Advanced/High Definition Television (ATV/HDTV)

$117,000 is requested to fund three Electronics Engineer positions to study the availability of spectrum for an ATV system, to monitor the development of technologies appropriate for ATV, and to assist in developing policies and regulations for ATV systems using the results of laboratory analysis; **$50,000 to purchase technical equipment** required for studies to ensure compatibility of ATV equipment with existing services and to support a multi-year technical equipment replacement plan; **$300,000 to fund contractual program assistance** to develop a method for the OET Laboratory to effectively choose frequency assignments for HDTV by taking into account technical constraints (such as cochannel separation distances) and policy considerations related to population served, commercial versus educational services, and diversity of station ownership; and **$145,000 to purchase one MICROVAX computer** to provide high-speed computing capability for HDTV spectrum availability studies, for the development of HDTV channel allotment tables, and to support development of Congressionally mandated terrain-dependent propagation models for FM/TV licensing.

National Spectrum Management/International Telecommunications Policy

$39,000 is requested to fund one Electronics Engineer position to support an increase in government/non-government (G/NG) frequency assignment coordination actions caused by greater shared use of the spectrum as a result of recent spectrum allocations at 900 MHz and 23 GHz; **$20,000 to purchase two personal computer workstations** to give the Commission the necessary computer technology to maintain effective relations with foreign and domestic telecommunications groups and other government agencies that use personal computers to generate and distribute information and perform analytical work; **$4,000 to fund domestic travel** to improve contacts with industry and radio users; and **$9,000 to fund international travel** to promote and advance U.S. telecommunications interests.

Technical Analysis

$34,000 is requested to purchase two computer engineering workstations to facilitate the work of engineering staff involved in such projects as terrain-dependent propagation modeling, medium-frequency (AM broadcast) antenna improvement program, support in international negotiations for expanded AM band use, and frequency allocation studies in response to rule making petitions.

Frequency Standards and Approval

$51,000 is requested to purchase two computer engineering workstations and one portable computer to give the OET Laboratory the capability to efficiently conduct indoor and outdoor testing of equipment by providing automatic control of testing, to collect and analyze test results, and to produce high quality reports and graphics.

VIII. SUPPORT ACTIVITY

Analysis of Resources
(Dollars in Thousands)

Resource Requirements:	FY 1989 Actual	FY 1990 Estimate	FY 1991 Adj. to Estab. Base	FY 1991 Base	FY 1991 Programmatic Increase	FY 1991 Request
Budget Authority	$23,298	$25,727	$+ 1,280	$27,007	$+ 4,447	$31,454
Outlays	$22,916	$26,906	--	--	--	$31,111
FTE employment:	396	393	--	393	+2	395
Personnel by Program:	FTE	FTE	FTE	FTE	FTE	FTE
Legal Services/Adjudication	78	74	--	74	--	74
International Communications	0	7		7	--	7
Plans and Policy	12	13	--	13	--	13
Public Affairs	20	19	--	19	--	19
Legislative Affairs	8	8	--	8	--	8
Financial Management	48	50	--	50	--	50
Management Services	24	23	--	23	+ 2	25
Administrative Services	89	80	--	80	--	80
Human Resources Management	38	36	--	36	--	36
Information Resources	79	83	--	83	--	83
Total	396	393	--	393	+ 2	395

Activity Description: The Support Activity provides basic support services for all of the Commission's primary activities. Specific program areas included in this activity are: Legal Services/Adjudication, International Communications, Plans and Policy, Legislative Affairs, Public Affairs, Financial Management, Management Services, Administrative Services, Human Resources Management, and Information Management.

FY 1989 Objectives/Accomplishments:

Objective: Develop cogent legal defense of any Commission action which is challenged in court; provide cogent and expeditious advice and assistance to Commission officials on matters affecting internal operations of the FCC; and review all policy and rulemaking proposals submitted to the General Counsel.

Accomplishment: The legal services/adjudication program participated in 215 appellate level and 81 Federal district cases during the Fiscal Year 1989. In addition, the staff responded to 17 appeals of denials of Freedom of Information Act Requests; reviewed and processed 16 employee tort claims; participated in six personnel cases; prepared 10 rulemaking proceedings; and provided legal advice and guidance on 702 matters that came before the Commission. Moreover, the Program responded to 36 Congressional inquiries and 34 general inquiries; and provided legal counselling on 108 internal administrative matters, 9 procurement matters and 12 garnishment matters.

Objective: Conduct hearings in the most timely manner in order to close the record and to issue the Initial Decision at the earliest possible date. Expeditiously process all adjudicative matters presented to the Review Board.

Accomplishment: All hearings were conducted in a timely manner. At the beginning of Fiscal Year 1989, the Office of Administrative Law Judges had 213 pending cases. 95 additional cases were received, 164 cases were disposed of, leaving a total of 144 cases pending. The Review Board had 32 cases pending, received 50 cases, and disposed of 53, including 19 initial decisions.

Objective: Perform long and short term policy planning for the Commission. Encourage unregulated, procompetitive policies in the Commission's administrative proceedings. Systematically review Commission rules, policies and procedures to identify those that may be deleted or reduced in scope to achieve technical, economic, or operational efficiency and greater reliance upon market forces.

Accomplishment: The Office of Plans and Policy had significant responsibility for the following two major policy items: A report on the need for a Universal Encryption Standard for Satellite Cable Programming, adopted March 30 by Notice of Inquiry; and Price Caps, adopted on March 16, 1989. OPP released working papers on "Integrated Broadband Networks," and "What makes the Dominant Firm Dominant." The office also initiated an inquiry on Syndex Rules for Home Satellite Dish Market.

Objective: Review major policy items from the bureaus to ensure they increase competition in the telecommunications industry, remove barriers to entry and encourage spectrum efficiency in both an engineering and economic sense, both during staff preparation and after submission to the Commission. Also provide economic, technical and legal input as needed in writing those items or responding by associate item.

Accomplishment: The Office of Plans and Policy provided major economic, technical and legal advice, and drafted and edited substantial portions of the following major items: AT&T's Tariff 12 offering; the Advisory Committee's Second Interim Report on Advanced TV Service; Program Exclusivity Rules Affirmed with modification of one-year transition period; AT&T's Competitive Pricing Plan, Tariff 15; ATV policies; Telco/Cable Crossownership; the relaxation of both technical and service restrictions for Cellular operators; Flexible Allocation Plan for Mobile Carrier Frequencies; and an Inquiry on Syndex Rules for Home Satellite Dish Market. The staff also contributed extensive input to the Chairman's Transition Management Plan.

Objective: Maintain existing FCC systems for management direction and control to facilitate the accomplishment of the Commission's six basic objectives.

Accomplishment: Quarterly reviews were conducted to ensure that the agency's goals, objectives and priorities were met. The four major program evaluations completed during FY 1989 included a study of the Commission's public reference rooms, a study of the application processing and reporting systems of the Mobile Services Division of the Common Carrier Bureau, a review of potential backlog problems within the Field Operations Bureau's Antenna Survey Branch, and a study of the operations and activities of the Managing Director's Office of the Secretary. The staff also coordinated all national security and emergency preparedness activities of the Commission to ensure readiness and continuity of government functions. The FCC, with other agencies, continued work on developing a new telecommunications service priority system which will improve the country's ability to restore or augment telecommunications in the event of national or local disasters by preparing a Report and Order establishing rules and publishing implementation documents for public comment. Our Emergency Broadcast System (EBS) efforts continued to focus on revitalizing the system by assisting the states in finalizing state and local plans.

Objective: Disseminate information on Commission actions and procedures to the Congress, the press and general public through issuance of announcements and fact sheets, and by conducting seminars, conferences and press briefings.

Accomplishment: A total of 679 news releases were prepared and a total of 5,304 documents, public notices and news releases and texts issued. The new electronic transfer procedure, which automatically dials and transmits releases, continued to work efficiently. Nineteen press briefings were conducted with a total of 77 issues briefed. Topics included: adoption of a price cap plan for AT&T; additional comments on a similar plan for the local exchange carriers; AT&T's and the Bell Operating Companies' open network architecture (ONA) plans; the radio duopoly rule; reaffirmation of the syndex rules; adoption of reforms to curb abuses of the FCC's comparative renewal processes; the rejection of AT&T's Tariff 12 offering; and the adoption of technical amendments designed to improve the quality of AM broadcast service. Ten brown bag luncheons were held to discuss topics such as: High Definition TV (HDTV); cable/telco crossownership; rural cellular; the allocation process; Alternative Operator Services (AOS); changes to Form 301 regarding the application for a construction permit for commercial broadcast stations; and multiple ownership rules. The Open Proceedings Listing was produced bimonthly to alert consumers and minorities to opportunities to participate in rulemaking proceedings. Conducted nine special mailings concerning new opportunities in the FM radio service, changes in Form 301, and proposed fee changes. Prepared and issued a status report on the Commission's Link-up America program developments. Sponsored a two-day EEO conference to focus national attention on minority employment in the broadcasting and cable industries. Participated in an NAB sponsored EEO Clearinghouse Conference and a Tax Certificate workshop at the New York University Law School. Produced a new fact sheet on Specialized Mobile Radio Services (SMRS) and updated fact sheets on Multipoint Distribution Services (MDS) and satellite scrambling. Compiled and distributed internally daily news clippings on telecommunications and mass media issues, canvassing over 20 publications daily/weekly. Published the FCC's 1988 Annual Report which was widely distributed among members of Congress, the public and internally at the FCC.

Objective: Respond expeditiously to written, telephone or walk-in requests for information or assistance from the Congress, news media, individual consumers and organizations, licensees, small businesses and minority entrepreneurs.

Accomplishment: Responded to approximately 83,761 general telephone inquiries within 24 hours. Of this total over 2,124 were requests for information on the fee program, 473 were Congressional inquiries, and 4,597 were calls concerning the fictitious petition to ban religious broadcasts (RM 2493). Responded to approximately 2,113 written general inquiries within 5 days and 27 written Congressional inquiries within 24 hours. Provided direct on-site counseling service to over 248 small business and minority entrepreneurs seeking to understand and participate in the ownership process.

Objective: Plan, develop and coordinate the Commission's legislative program and activities by obtaining Bureau/Office comments on legislative needs, performing necessary research, and evaluating recommendations to the Commission. Coordinate with other Commission Bureaus/Offices the review, evaluation and recommendations with respect to legislation proposed by members of Congress, Executive Departments, and other agencies. Assist in the preparation of Chairman's/Commission's testimony before Congressional committees. Maintain a continuous liaison with the Congress to ensure good relations to the maximum extent possible.

Accomplishment: During FY 1989, the Legislative Affair's staff assisted in the preparation of testimony and briefing material for 17 Congressional hearings on a number of diverse issues including: telephone price caps; FCC Appropriations and Reauthorization; cable deregulation; HDTV; alternative operator services;

"informercials;" reallocation of spectrum from amateurs to land mobile users; alcohol abuse prevention; confirmation hearing for Chairman-Designate Alfred C. Sikes and Commissioners-Designate Sherrie Marshall and Andrew Barrett; FCC reauthorization for FY 1990-1991; minority ownership; spectrum reallocation and oversight of the 1984 Cable Act. Drafted and informally circulated on Capitol Hill 12 FCC legislative proposals to amend the Communications Act, three of which were incorporated in the enacted Omnibus Budget Reconciliation Act of 1989 and nine of which are incorporated in the pending "FCC Authorization Act of 1989." Monitored over 24 hearings, bill mark-ups, and floor actions of interest to the Commission on such issues as the Fairness Doctrine, children's television, HDTV, telecommunications devices for the deaf, rural access to telecommunications services, negative campaign ads, TV Marti, media ownership, and diversity, the future of the modified Final Judgment, cable television rates, and must-carry regulation. Coordinated and participated in informational briefings of Congressional members and staffs on a wide range of telecommunications issues. Prepared both formal and informal comments on pending bills for the Congress and OMB on various communications legislation. Coordinated extensive Congressional liaison activities, including responses to numerous Congressional inquiries regarding the status of applications for frequencies, construction or modification of facilities and special temporary authorizations. Participated in revising and updating the Communications Act of 1934 and related provisions of law. Processed 3,421 written Congressional inquiries, usually within ten business days.

Objective: Maintain financial management activities throughout the agency. Ensure that the expenditure of allocated funds is consistent with Commission objectives and priorities and that proper accountability is maintained. Correct deficiencies in FCC debt collection procedures.

Accomplishment: All financial management activities were maintained or improved during the fiscal year. All agency expenditures were consistent with the Commission's objectives and priorities, and accountability of funds was maintained at all times. Consistent with the FCC's Five-Year Financial Management Plan, the debt collection program was added to the automated Accounts Receivable System this year. This provided significant improvements in the identification, monitoring and collection of debts.

Objective: Maintain existing information management and processing systems.

Accomplishment: In addition to maintaining existing information management and processing systems, several new systems were implemented and developed in FY 1989. The Common Carrier Bureau's Land Mobile system, Phase III, was implemented in the first quarter of FY 1989, providing on line update capability for Land Mobile notification of facility status and transfer of control. The Data Entry conversion was completed by re-writing the data entry processes for the new minicomputer, resulting in increased speed of service to the public in the production of licenses and license renewal notices. The Private Radio Bureau's Marine System was developed and implemented in May 1989, as was work on the Financial Management Division's International Telecommunications Settlement System interface with the on-line marine databases. This database is also of use to the Field Operations Bureau in their inspection, monitoring and enforcement work.

SUPPORT

Plans were completed for the conversion of the FCC's Payroll and Personnel Systems to the Agriculture Department's National Finance Center's automated systems. The Private Radio Bureau's Land Mobile System Pending and Tracking Data and Common Carrier Bureau's Land Mobile Grant Data were made available to the public through the Public Access contractor. Implementation of automated routines to determine airport proximity for applications and to perform slope calculations for navigational hazard determination aided in reducing the clearance backlog in the Field Operations Bureau. Finally, a requirements study to replace the Field Operations Bureau's existing Antenna Survey System with a new automated antenna clearance system which will optimize procedures for determining that an applicant's transmitter tower poses no hazard to air navigational safety was completed.

Objective: Provide dissemination of information on Commission meetings, docketed proceedings and FCC regulatory decisions.

Accomplishment: All agenda items and notices announcing Commission meetings were distributed expeditiously in accordance with established standards. Backlogs in the posting of history records and the filing of items in the original and duplicate docket binders were virtually eliminated during the fiscal year. All materials are now being posted and filed on time.

Objective: Develop plans to implement Phase I of the computer controlled optical image processing system for Commission docketed proceedings to reduce storage space and improve access to files and records needed by FCC staff and the public.

Accomplishment: A comprehensive requirements study for a computer-controlled optical disk image system for Dockets Branch was completed. A special task force which will oversee the procurement, installation and implementation of this system was established with the Deputy Managing Director assigned as project manager. However, all plans to implement Phase I of a disk system were postponed due to a significant reduction in the agency's FY 1989 funding level. With adequate funding anticipated in FY 1990, the task force has developed a comprehensive implementation plan for the image processing system and is currently developing the solicitation document.

Objective: Assist supervisors and managers to utilize their personnel in accomplishing goals and objectives. Ensure that FCC employees are properly appraised, recognized and rewarded for their contributions to the achievement of Commission objectives. Continue to fulfill basic EEO responsibilities to employees despite a reduction in staff.

Accomplishment: FY 1989 featured the initiation and/or completion of several notable projects. A highly detailed plan was developed to enable the Commission to convert and implement the Department of Agriculture National Finance Center's payroll/personnel cross servicing program. The FCC submitted and obtained an "early out" retirement request from OPM. As a result, twenty-seven early retirements were processed, realizing more than $790,000 in savings. A "Drug-Free Workplace Plan" was developed, negotiated with the union, and approved by Health and Human Services. A continuing effort was made to educate Commission employees regarding their rights and responsibilities and the services available to them. To achieve that end, an FCC Awards Handbook and an Employee Assistance Program booklet were prepared and issued; two information booklets for managers and supervisors were completed on "Leave Administration" and "Handling Job-Related Injuries"; twenty-three Employee Information Bulletins were distributed providing guidance on a variety of topics; three issues of the in-house newsletter "Labor Management and Employee Relations Adviser" were prepared; and eighty-nine in-house training sessions were offered. An orientation/training program on the Commission's EEO program, "EEO for Employees," was developed and offered to FCC employees to make them aware of EEO program procedures, rights and protections, and responsibilities. In addition, a Hispanic Recruitment Program was developed.

Objective: Maintain Commission programs for personnel security, physical security, internal audit, financial disclosure, review and inspection, Freedom of Information Act, and inquiry into prohibited ex parte matters at minimal levels.

Accomplishment: Quarterly security checks of physical security requirements of FCC buildings were performed and recommendations were made to correct deficiencies. FCC Reference Rooms were the recipients of 100 security checks. An audit was conducted of FCC travel authorizations, vouchers, and other associated financial management data. Reviews were also made of the Commission messenger service, vehicle authorization procedures and the Personnel Records Section. In this fiscal year more than 278 FOIA requests and 900 ex parte referrals were processed.

Objective: Continue to provide essential forms management and paperwork reduction services to the Commission.

Accomplishment: In addition to performance of prescribed functional responsibilities for the design, maintenance, and submission of forms to OMB for approval, two major forms related projects were completed in Fiscal Year 1989. In anticipation of legislative changes in the schedule of fees, all forms and instructions were reviewed for elimination of specific fee information. Secondly, formal written policies were developed and published prescribing standards for private printing of agency forms to enhance availability to the public. The FCC 1989 paperwork burden imposed on the public increased a mere 0.7% which in no way diminishes the more than 72% overall reduction accomplished since the Commission began participation in 1981. An IRM Review of the Commission's compliance with Section 3506 of the Paperwork Reduction Act was completed resulting in several minor recommendations to enhance our compliance. A second IRM review of the Common Carrier Bureau's Automated Reporting and Management Information System (ARMIS) was conducted to confirm conformance to Federal policy on electronic filing and to identify any duplicate reporting requirements.

FY 1990/1991 Objectives:

1. Develop cogent legal defense of any Commission action which is challenged in court; provide cogent and expeditious advice and assistance to Commission officials on matters affecting internal operations of the FCC; and review all policy and rulemaking proposals submitted to the General Counsel.

2. Conduct hearings in the most timely manner in order to close the record and to issue the Initial Decision at the earliest possible date. Expeditiously process all adjudicative matters presented to the Review Board.

3. Perform long and short term policy planning for the Commission. Encourage unregulated, procompetitive policies in the Commission's administrative proceedings. Systematically review Commission rules, policies and procedures to identify those that may be deleted or reduced in scope to achieve technical, economic, or operational efficiency and greater reliance upon market forces.

4. Review major policy items from the bureaus to ensure they increase competition in the telecommunications industry, remove barriers to entry and encourage spectrum efficiency in both an engineering and economic sense, both during staff preparation and after submission to the Commission. Also provide economic, technical and legal input as needed in writing those items or responding by associate item.

5. Ensure that FCC systems for management direction and control facilitates the accomplishment of the Commission's five basic goals, enhance the regulatory effectiveness of the FCC and improve the utilization of resources.

6. Disseminate information on Commission actions and procedures to the Congress, the press and general public through issuance of announcements and fact sheets, and by conducting seminars, conferences and press briefings.

7. Respond expeditiously to written, telephone or walk-in requests for information or assistance from the Congress, news media, individual consumers and organizations, licensees, small businesses and minority entrepreneurs.

8. Plan, develop and coordinate the Commission's legislative program and activities by obtaining Bureau/Office comments on legislative needs, performing the necessary research, and evaluating recommendations to the Commission. Coordinate with other Commission Bureaus/Offices the review, evaluation and recommendations with respect to legislation proposed by members of Congress, Executive Departments, and other agencies. Assist in the preparation of the Chairman's/Commission's testimony before Congressional committees.

SUPPORT

Maintain a continuous and improved liaison with the Congress to ensure good relations to the maximum extent possible. Attend major conferences and seminars when members of Congress or their staffs are attending in order to perform liaison activities and to be able to report to the Chairman, Commissioners and Bureau/Office Chiefs the concerns expressed by the members of Congress or their staffs during the course of such conferences or seminars.

9. Strengthen financial management activities throughout the agency and assist in making the most effective use of allocated resources for accomplishing goals and objectives. Ensure that the expenditure of allocated funds is consistent with Commission objectives and priorities, and that proper accountability is maintained. Implement automated financial management systems in accordance with the Commission's Five-Year Financial Management Plan.

10. Effectively utilize the Commission's information management systems and resources to: increase efficiency and productivity, reduce the regulatory burden to the public, and provide FCC staff and the public with expeditious management and information processing services.

11. Provide expeditious dissemination of information on Commission meetings, docketed proceedings and FCC regulatory decisions.

12. Implement Phases I and II of a computer-controlled optical image processing system for Commission docketed proceedings to reduce storage space and improve access to files and records needed by FCC staff and the public.

13. Strengthen personnel management activities throughout the agency and assist managers in improving the utilization of the Commission's human resources in accomplishing goals and objectives. Ensure that FCC employees are properly appraised, recognized and rewarded for their contributions to the achievement of Commission objectives. Implement the cross-servicing agreement with the National Finance System for a new payroll/personnel system.

14. Ensure that Commission programs for personnel security, physical security, internal control and vulnerability assessment, financial disclosure, review and inspection, Freedom of Information Act, and inquiry into prohibited ex parte matters are responsive to the needs of Commission management and in full compliance with applicable laws and regulations.

15. Provide timely, quality and useful forms management and paperwork reduction services to the Commission and provide the information needed to effectively manage agency programs while minimizing the burden on the public.

SUPPORT

16. Ensure the integration and coordination of Commission international policy activities; ensure that the Commission's international policies are cohesive; assume the principal representational role for Commission activities in the international fora; and serve as the general focal point for Commission international activities.

Justifications:

$3.6 million is required in the **office equipment** account and other accounts for the purchase of system furniture, reference room furniture, towers and equipment for monitoring, and contracts associated with the relocation/consolidation of the FCC. The majority of the costs, $3.4 million, is for the purchase of systems furniture. The total amount of space for agency use was reduced substantially to meet the GSA standard of 135 square feet per employee. The only means to accommodate both the need for specialized space for reference rooms, computer rooms, etc., and at the same time provide adequate space for staff was to make substantial use of "open office landscaping" using systems furniture. Current FCC office equipment is antiquated, and not suitable for landscaping use. Systems furniture must be ordered six-to-nine months prior to the move which is scheduled for Fiscal Year 1992. The remaining $200,000 will fund the necessary technical antenna array to provide communications for the new facility.

A total of $357,000 is requested to purchase **ADP equipment and related software** to implement strategic, agency-wide, information management initiatives scheduled for Fiscal Year 1991.

$305,000 is required to complete the 1st phase of the FCC's Master Plan for Office Automation. The funding of this phase will allow the agency to supply 100% required terminals, printers and decentralized/distributed computers to FCC headquarters. The requirement is Packet VIII of the Information Resource Management (IRM) Plan as submitted to OMB.

An additional **$52,000** in ADP equipment and software is required to fund the planned replacement of existing automation equipment with state-of-the-art computers. Funding will complete the replacement of existing computers which are over five years old. These obsolete computers are more costly to maintain and frequently cannot accommodate the latest software releases and features. This requirement is Packet XII of the IRM Plan as submitted to OMB.

$208,000 is requested in **contractual program assistance** funding to extend the interagency agreement with the National Finance Center to include the FCC's accounting transactions. The FCC's Five-Year Financial Management Plan requires that a fully integrated financial system that complies with OMB regulations be in place by Fiscal Year 1992. Currently, the agency is attempting to meet this goal by modifying an off-the-shelf commercially-

SUPPORT

based software package. However, significant incompatibilities exist between this software and other segments of the FCC financial databases, particularly the accounts payable and funds control systems. The most economical and expeditious route to complete the five-year plan is to go "full service" with the NFC. By doing so, the FCC will have a fully integrated automated accounting system with all required internal controls.

$150,000 is required in **ADP Service Contracts**. The Mass Media Bureau will soon complete the migration of its first automated licensing system from the central data processing facility to its own complement of minicomputers. Funds are requested to complete an overall evaluation of distributed processing to assist in determining the proper mix of distributed and central site computing that will be most beneficial and cost effective for the FCC in the future. This is a critical element of the Commission's long range Information Resource Management Plan.

The Office of Managing Director is requesting **$51,000** to fund 2 **FTPs/FTEs** for an **entry-level engineer and program analyst** and **$6000** in additional funding in its **domestic travel** account to support the FCC's continued active participation in ongoing efforts to upgrade the national Emergency Broadcast System (EBS) and to update state and local EBS plans to provide a more viable EBS.

To date in excess of $5 million has been spent by FEMA on the Primary Entry Point (PEP) and Emergency Action Notification (EAN) systems with another $10 million allocated to complete these networks. The FCC has provided technical advice for these joint projects but is now required to develop systems procedures and tests and to provide administrative oversight for the allocation and installation of new equipment. The FCC staff must also assist in the development of adequate and up-to-date local, state and national emergency broadcast plans. The need for such plans has been underlined in recent years by the number and magnitude of natural disasters. A majority of existing state and local plans were developed during the late 1970's and do not include local cable systems. Yet nationally, 30% of homes tune into cable television network programs rather than local television stations.

To adequately support these two ongoing projects, a minimum of four workyears are required. Currently there are two positions budgeted for these activities. The additional travel funds would be used to conduct state and local EBS workshops specifically conducted to update local and state plans. These workshops will be attended by broadcasters, state and local officials and National Weather Service (NWS) field personnel.

$50,000 in **contractual program assistance** is required to fund the FCC's share of the National Communications Systems's National Level Program. This amount has been established as the minimum level of funding for participation in this program. It represents a considerable increase from the Commission's previous annual assessment of **$1400** which was based on the agency's national security **emergency preparedness requirements** for private line restoration. Payment of this annual fee satisfies requirements imposed by Executive Order 12472 and the National Security Decision Directive 201.

A restoration of **$25,000** is required to adequately fund **international travel** in Fiscal Year 1991. Over the past two years, due to severe budget cutbacks, the FCC's funding for international travel was significantly reduced and only the most essential international travel allowed. Several bilateral conferences are scheduled in 1991 to prepare for world telecommunications conferences, also to be held that year. The FCC must actively participate at and send delegations to these international proceedings.

APPENDIX

Listing of Supplemental Exhibits

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

JUN 1 1989

OFFICE OF
MANAGING DIRECTOR

Honorable John Glenn
Chairman
Senate Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is in compliance with 31 U.S.C. 720, which requires agency heads to submit written statements on actions taken to effect recommendations from the General Accounting Office. At issue is GAO's report on Laboratory Accreditation, released March 28, 1989. I am pleased to report on the Commission's response.

The focus of the GAO study was to identify overlapping and burdensome laboratory accreditation programs of the various federal agencies. It has identified only two such programs, the National Institute of Standards and Technology's (NIST) National Voluntary Laboratory Accreditation Program (NVLAP), and the Federal Communications Commission's "Description of Measurement Facilities Program." GAO's recommendation is that the Chairman of the FCC and the Director of NIST work together to eliminate overlaps in these programs by determining how the NVLAP program alone can best meet FCC requirements. Some background on FCC and NVLAP activities would be helpful.

In order to carry out its responsibilities under Sections 301 and 302 of the Communications Act, the Commission has a long-standing program of authorizing many radio frequency devices before they may be offered for sale in the United States. The authorization process requires an application containing data showing that a device has been tested and found to meet relevant Commission technical standards. Generally, an applicant uses private independent testing firms for this purpose. Section 15.38 of the Commission's rules requires that applicants for certification of low power communication devices file a description of the measurement facilities used to test the devices in question. The purpose of this filing is to enable the Commission's laboratory staff to determine whether testing facilities have the proper test site to measure radiated emissions. Independent testing firms also file applications on behalf of applicants. The test firms provide the required information once and then update it every three years. A list of firms having the proper test sites is available to the public. It is the Commission's requirement for a Section 15.38 filing and the examination thereof by the staff that GAO considers an accreditation program under its umbrella definition. The Commission does not consider this aspect of its application procedure to be an "accreditation program."

The NVLAP program of NIST is of more recent vintage than the FCC's filing requirement and considerably more involved. It is a true accreditation program. At the present time, the facet of NVLAP's work of relevance to the Commission is only it's accreditation of laboratories competent to perform the FCC's required testing of personal computing devices. This accreditation requires more than a mere filing. NVLAP inspects each laboratory, evaluates its capabilities and measurement techniques and requires the laboratory to test a sample device. The laboratory then pays an accreditation fee of $2000.

The extension of NVLAP's efforts into this field was welcomed by the Commission because it was recognized that private testing firms were taking different approaches to compliance with the Commission's published test procedures for determining compliance with the technical standards for computers. It was not envisioned that the NVLAP accreditation program would be a substitute for any Commission process because, at least by a traditional understanding of the term, the Commission has no "accreditation" program. Regardless of definitions, however, there is, in fact, a slight overlap in the information required of laboratories.

Under NVLAP's procedures and also pursuant to Section 15.38 of the Commission's Rules, a laboratory must describe its measurement facilities and the equipment it uses to test computers. It should be noted that this overlap exists only in the case of computing devices. Section 15.38 applies to applications for certification of many other devices. Furthermore, at the present time, of the 150 laboratories on file with the Commission, only 12 have received NVLAP accreditation. Under these circumstances, little purpose would be served by engaging in a rulemaking proceeding, the end-product of which would be to relieve 12 laboratories of a short filing requirement insofar as they test computing devices. In any event, the Section 15.38 filing would still be required in connection with applications for devices other than computers. Thus, a rule change would not in practice relieve testing laboratories of the minimal burden of filing under Section 15.38.

Because of the benefits of the NVLAP program already realized, and the promise of greater benefits as more laboratories participate, the Commission's staff will continue to meet with NVLAP personnel, share information and in other ways encourage the success of this particular NVLAP effort. Should the NVLAP program become broader in scope or attract greater participation by private laboratories, the Commission will certainly revisit the notion of eliminating its own filing requirement in favor of NVLAP's. At the present time, however, I believe such action would be premature.

I hope this letter has provided a sufficient explanation of the Commission's views. If you require any further information, I will be happy to provide it.

Sincerely,

Edward J. Minkel
Managing Director

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

JUN 1 1989

OFFICE OF
MANAGING DIRECTOR

Honorable John Conyers, Jr.
Chairman
House Committee on Government Operations
U. S. House of Representatives
Washington, D.C. 20515

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I hope this letter has provided a sufficient explanation of the Commission's views. If you require any further information, I will be happy to provide it.

Sincerely,

Edward J. Minkel

Edward J. Minkel
Managing Director

ANNUAL REPORT RELATING TO DRUG-TESTING ACTIVITIES CONDUCTED BY THE FEDERAL COMMUNICATIONS COMMISSION

Pursuant to Section 503(f) of Public Law 100-71 (July 11, 1987), the following information relating to drug-testing activities conducted by the Federal Communications Commission during Fiscal Year 1989 is submitted to the Committees on Appropriations of the House of Representatives and the Senate:

1. The number of random tests, reasonable suspicion tests, accident or unsafe practice tests, follow-up tests, or applicant tests administered.

   o None

2. The number of verified positive test results.

   o None

3. The number of voluntary drug counselling referrals.

   o Two

4. The number of involuntary drug counselling referrals.

   o Three

5. The number of terminations or denials of employment offers resulting from refusal to submit to testing.

   o None

6. The number of terminations or denials of employment offers resulting from alteration of specimens.

   o None

7. The number of terminations or denials of employment offers resulting from failure to complete a drug abuse counselling program.

   o None

8. The number of employees who successfully completed the FCC Employee Assistance Program.

   o One

A-11-43A

REPORT ON OBLIGATIONS FOR INFORMATION TECHNOLOGY SYSTEMS

FEDERAL COMMUNICATIONS COMMISSION

OBLIGATIONS FOR INFORMATION TECHNOLOGY SYSTEMS

	1989	1990	1991
1. Capital Investments ($000)			
A. Purchase of Equipment	326	763	832
B. Purchase of Software or Other Equipment	231	60	196
C. Site or Facility	0	0	0
Subtotal	557	823	1,028
2. Personnel ($000)			
A. Compensation, Benefits and Travel	3,789	4,154	4,299
B. Workyear	(86)	(91)	(91)
Subtotal	3,789	4,154	4,299
3. Equipment Rental, Etc. ($000)			
A. Lease of Information Technology Equipment	84	379	379
B. Space	661	698	727
C. Supplies and Other	116	85	92
Subtotal	861	1,162	1,198
. Commercial Services ($000)			
A. ADPE Time	0	0	0
B. Leased Services	0	0	0
C. Operations and Maintenance	1,868	2,672	2,589
D. Systems Analysis & Programming	125	362	378
E. Systems Design & Engineering	0	0	0
F. ADP Studies and Other	0	0	0
Subtotal	1,993	3,034	2,967

5. Interagency Services ($000)			
A. Payments	0	0	0
B. Offsetting Collections	63	63	63
Subtotal	63	63	63
6. Intraagency Services ($000)			
A. Payments	0	0	0
B. Offsetting Collections	0	0	0
Subtotal	0	0	0
7. Other Services ($000)			
A. Payments	0	0	0
B. Offsetting Collections	0	0	0
Subtotal	0	0	0
TOTALS			
Total Obligations	7,137	9,110	9,429
Workyears	86	91	91

A-11-43B

FEDERAL COMMUNICATIONS COMMISSION

Major Information Technology Acquisition Plans
1990-1995
(In thousands of dollars)

Item: FCC Advanced Computer System

Obligations:	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
	125	662	1600	1600	1600	1600

Description: The Commission has begun implementing the concept of decentralized/distributed computer processing in an end-user type environment. Under this distributed concept computer application systems will be moved to smaller end-user oriented minicomputers with communication links to other computers. A large computer will continue to serve as a file server for the distributed network.

1991 INFORMATION TECHNOLOGY PROGRAM NARRATIVE

FOR A-11 EXHIBIT 43B

The Federal Communications Commission uses Information Resources Management resources to perform a variety of highly complex or repetitive operational and administrative tasks. The basic goals of the Information Resources Management (IRM) program are to improve IRM services to increase service to the public, improve productivity and provide assistance to agency management in the decision making process. As a regulatory agency, the FCC solicits information from many sources, including the general public, license holders, interested organizations and others on a multitude of topics related to telecommunications. Through the use of information technology, the FCC is able to reduce the large quantity of information it receives into meaningful and useful reports.

Beginning in FY 1990, the FCC will be conducting a series of studies to determine the direction of information resources management in the 21st century. First, an information audit will determine the flow of information into and within the Commission to define the FCC's and public users' information needs. This will be accomplished by identifying all the points of information entry into the Commission, then analyzing the creation, use, and transfer of this information. The results of this study will be used for many purposes including the process of starting the studies required by Federal Information Resources Management Regulations and Federal Acquisitions Regulations for major IRM acquisitions. The explosion of communications technology and rapidly expanding computer capabilities has caused major changes in the telecommunications industry. The FCC plans a study to identify and articulate the full range of opportunities for computer aided regulation, their benefits and costs, and a plan for implementation with recommended priorities to be identified in the end product, "Guide to the 1990s". Another study, to be conducted in FY 1991, will focus on the legal issues related to electronic filing to enable the FCC to implement an electronic filing and electronic document availability to the public.

As mentioned above, the FCC anticipates a major IRM acquisition in the immediate future, replacement of the mainframe computer. The Honeywell mainframe is the repository of the FCC Master Frequency File and the majority of the Commission's license applications processing systems. It is a large dual processor system which has been augmented by a variety of memory add-ons and peripheral devices. The FCC plans to replace it because of technical obsolesence and greatly increased maintenance costs.

The FCC's paper files and records occupy a significant portion of office space. In FY 1987 the FCC researched all available technical solutions and completed a comprehensive requirements analysis describing both the pilot project and the impact and integration of this technology with existing Commission systems. In FY 1990 the Commission will seek to acquire a document image processing system which integrates state-of-the-art products such as optical disk, high resolution displays, optical scanners, laser printers and relational database management software. This system will solve the problem of paper storage while greatly improving staff and public access to information.

The FCC completed a computer security plan on January 6, 1989. This plan is the blueprint for evaluating and revising internal standards and procedures which deal with the requirements contained in the Computer Security Act of 1987.

Mr. SMITH. We have testifying today the chairman of the Commission, the Honorable Alfred Sikes.

Do you have a statement? Do you want to summarize it, or do you want to read the whole thing?

Mr. SIKES. Yes, Mr. Chairman, I do have a statement which I would like filed for the record, and then if permissible, I would like to provide a summary.

Mr. SMITH. All right. We will do that.

Mr. SIKES. Would you like me to proceed?

Mr. SMITH. Go ahead.

PREPARED STATEMENT

Mr. SIKES. Mr. Chairman and Members of the subcommittee, thank you for this opportunity to review the FCC's Fiscal Year 1991 appropriations request.

With me today are our Managing Director, Andy Fishel; Budget Officer, Marilyn McDermett; and our bureau chiefs and office heads.

I have now completed seven months as the FCC's Chairman. Now that I have had adequate time to assess both the Commission's responsibilities and resources, I am troubled by what I have found, and concerned about the FCC's ability to perform effectively all of its responsibilities.

If the FCC lacks adequate funding, quality will suffer, and timely decisions will become a memory. Especially, in communications and information services sector, such a result is intolerable.

Communications and information services are critical to deliver a broad range of commercial, government, and social services. How effectively the country harnesses these new technologies will depend in large part on how effectively the FCC meets its responsibilities.

SUMMARY OF BUDGET PROPOSAL

Let me summarize our fiscal year 1991 budget proposal. The FCC is requesting $117.9 million in appropriations, and authority to hire 1,778 full-time equivalent employees (FTEs) for fiscal year 1991.

This represents a 9.7 percent increase over our fiscal year 1990 appropriations which was about $107 million after sequestration. It is an increase of about $10.4 million, of which some 45 percent constitutes nondiscretionary, nondeferable cost increases.

The balance, about $6.9 million, is called programmatic increases. In actuality, however, it constitutes what I believe is needed to restore integrity to the Commission's overall regulatory and enforcement responsibilities.

TREASURY RECEIPTS AND COLLECTIONS

Due to collection and enforcement activities in fiscal 1991, it is likely we will recover about one-third of our spending request.

In fiscal year 1989, the FCC remitted to the Treasury more than $55 million in fees due to an unprecedented volume of cellular radiotelephone applications.

Let me also note that unlike other regulatory agencies, the FCC currently lacks authority to retain what it collects. Pending authorization legislation would let us recover some, though not all, of the costs associated with these collections. As a matter of long-range policy, however, I want to make the FCC self-sufficient and would like to have the subcommittee's support.

RESTORATIVE MEASURES

It is important, Mr. Chairman, to place these increases in context. During the Eighties, our communications and information economy roughly doubled and grew even more in terms of new services, enterprises, and international competitive challenges. At the same time, the FCC's budget actually shrank by nearly one-third in actual spending power.

Even with the modest increases provided in fiscal 1990 and proposed in our current request, the FCC will still embark upon this last decade of the 20th Century with 20 percent less in revenue and human resources than it enjoyed in 1981.

CONSEQUENCES OF RESOURCE SHORTFALLS

This resource shortfall, Mr. Chairman, has had perhaps its most immediate impact on the American public and the businesses the FCC regulates. Processing times in some areas, for example, have grown longer. Staff shortages necessitated cutbacks in a number of enforcement efforts.

MAJOR AREAS OF INTEREST

Mr. Chairman, the FCC is committed to maintaining the effectiveness and integrity of its overall regulatory process. At the same time, we want to take steps needed to ensure the United States has a telecommunications infrastructure second to none.

In respect to our budget, there are three key areas I would like to emphasize.

These are, first, high-definition television or HDTV, where the FCC is responsible to adopt new standards which will usher in future generations of television.

Second, there is the matter of Open Network Architecture (ONA) where the key issues involve ensuring that our telecommunications assets are available to support new communications and information services.

Third, there is a range of issues regarding our management of the radio spectrum resources and the introduction of new, radio-based services.

HDTV CONCERNS

Just as the convergence of computer and telecommunications technologies has produced major changes in the telephone industry, the computerizing of broadcasting almost certainly will yield comparable changes and advances in television.

Our budget request contains a proposal for six additional engineers to work on HDTV issues. It also proposes about $500,000 in further equipment, research, and contract efforts to support the FCC's overall HDTV effort. We believe this is the minimum necessary to maintain credibility in this evolving, high-technology field.

COMMON CARRIER ISSUES

How effectively our telephone network performs has obvious ramifications for consumers, business, and government. Last year, for example, spending for computers equaled about 3 percent of our Gross National Product. More than a quarter of business investment in equipment went to install computers and related machinery. This was in addition to our already very large installed base of computer equipment.

We can capture the efficiencies inherent in this large store of computers more effectively if we can link them using the latest in communications facilities. Achieving that linkage, however, presents a number of regulatory challenges.

Our budget request calls for about $423,000 in additional automation and common carrier bureau support. This will go to strengthening our current resources and abilities in this critical area.

RADIO SPECTRUM MANAGEMENT

The third major program area which I would like to discuss, Mr. Chairman, concerns our overall radio spectrum management. Demands on this resource are growing exponentially. One of the largest challenges we face today is finding ways to allow new and innovative uses of the spectrum without causing harmful interference.

[The prepared statement of Mr. Sykes follows:]

Statement of

Alfred C. Sikes
Chairman
Federal Communications Commission

Before the

Subcommittee on Commerce, Justice, State,
the Judiciary, and Related Agencies
Committee on Appropriations
House of Representatives

on

Federal Communications Commission
Fiscal Year 1991 Appropriations Request

Monday, March 12, 1990

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to review the appropriations request of the Federal Communications Commission (FCC) for fiscal year (FY) 1991.

With me today are the FCC's Managing Director, Andy Fishel, and our principal budget officer, Marilyn McDermett, as well as our principal bureau chiefs and office heads. We would, of course, be pleased to respond to any detailed questions the Subcommittee or its staff might have.

I have now completed seven months as the FCC's Chairman. Now that I have had adequate time to assess both the Commission's responsibilities and resources, I am troubled by what I have found, and concerned about the FCC's ability to perform effectively all of its functions. If we are to meet all the responsibilities we face, significant increases in our resources are required.

Summary of Statement

My statement today is in three parts. First, I would like to summarize our FY 1991 appropriations request, to provide some of the pertinent percentages and other budget statistics, and also to draw your attention to the information which is contained in the charts and other summary material we provided earlier to the Subcommittee.

Second, I want to discuss some of the public and national implications of the financial challenges the FCC confronts -- and, even under this proposed budget will continue to face. If the FCC lacks adequate funding, quality will suffer, and timely decisions will become a memory. In the communications and information services sector, such a result is intolerable.

Our budget predicament, of course, is not unique. Fiscal austerity imperatives have affected a broad range of other Government programs as well. Where the challenges we face are different, however, is in the potential impact on our international competitiveness. For example, if the FCC is unable to address high-definition television (HDTV) issues both well and on a timely basis, that could have serious consequences for U.S. competitiveness. Similarly, if the FCC is unable effectively to implement and monitor its "Open Network Architecture" (ONA) initiative, that also could generate negative consequences which would ripple throughout our economy.

Communications and information services are increasingly vital and important factors of production, critical to the delivery of a broader and broader range of commercial, government, and social services. How effectively the country proves able to harness these new technologies, and to capitalize on the great efficiencies they generate, will hinge in large part on how well the FCC is able to meet its statutory responsibilities.

Finally, Mr. Chairman, I would like to conclude my statement by identifying several of the key issues and concerns which we plan to address in the next few months and years. These initiatives, of course, are reviewed in detail in the budget material we have earlier submitted. Nevertheless, I would like to highlight those topics which I believe warrant special attention by the Subcommittee, because I believe they are so important to our country.

Summary of Budget Proposal

Let me begin, now, by summarizing our FY 1991 budget proposal. If you will turn, please, to the first page of the Introduction, you will see that the FCC is requesting $117.9 million in appropriations, and authority to hire 1,778 full-time equivalent employees (FTEs) for fiscal year 1991.

Percentages and Dollar Increases

Our request, Mr. Chairman, represents a 9.7 percent increase in funding over our FY 1990 appropriation -- which was about $107 million, after this year's sequestration.

This represents an increase of about $10.4 million. Of that amount, however, some 45 percent constitutes nondiscretionary, nondeferable cost increases. Office rent, printing, mail, and other costs, for instance, have steadily risen, and we anticipate that the pay and benefits increase for civil servants and appointees (which the Administration has approved) will add more than $3.9 million alone to our FY 1991 budget needs.

The balance of our request -- about $6.9 million -- is technically denominated "programmatic increases." In actuality, however, it constitutes simply the additional funds and personnel which I believe are minimally needed to restore systemic integrity to the Commission's overall regulatory and enforcement responsibilities.

Treasury Receipts and Collections

Due to collection and related activities in fiscal 1991, it is likely we will recover about one-third of our spending request, or about $41 million.

In fiscal year 1989 -- the last year for which we have definitive statistics available -- the FCC remitted to the Treasury more than $55 million in fees. Much of this was due, however, to an unprecedented volume of cellular radiotelephone service applications.

Let me also note that, unlike other regulatory agencies, such as the Federal Trade Commission (FTC), the FCC currently lacks authority to retain the fees and other funds it collects. Pending authorization legislation would allow us to recover some, though not all, of the costs associated with these collections. As a matter of long-range policy, however, I want to make the FCC, as other regulatory agencies, generally self-sufficient, and would like to have the Subcommittee's support.

Restorative Measures

It is particularly important, Mr. Chairman, to place the modest increases we are requesting in a broader context. During the Eighties, our communications and information economy roughly doubled in revenues -- and grew even more in terms of new services, new enterprises, new international competitive challenges, and new policy complexities. At the same time, however, the FCC's budget actually shrank by nearly one-third, in terms of actual spending power.

Consequently, substantial personnel and other operational cuts were incurred. Our authorized workforce, for example, declined by more than 21 percent between 1980 and 1990. The resources available for enforcement of our rules and regulations attenuated greatly as well. For want of resources, the agency charged by Congress with regulating one of the highest technology sectors of our economy also lagged behind most of the rest of the Government in terms of its ability to integrate modern data processing and improved management into its operations, even to install the most routine of communications tools. Not until December 1989, for example, shortly after I became Chairman, did the FCC move from rotary dial to touch-tone phones. Also affected were our Laurel, Maryland, research and testing laboratory facilities where, currently, some of the technical equipment used is actually older than the employees who work with it.

Even with the modest, restorative increases provided in fiscal 1990, and proposed in our current budget request, the FCC will still embark upon this last decade of the 20th Century with 20 percent less in revenue and human resources than it enjoyed in 1981.

Consequences of Resource Shortfalls

This resource shortfall, Mr. Chairman, has had perhaps its most immediate impact on the American public and the important businesses that the FCC regulates. Processing times in some areas, for example, have grown longer, with the result that business has had to bear the cost of delay. Staff and other resource shortages necessitated cut-backs in a number of enforcement efforts. And, resource shortfalls also meant less ability on the part of the agency to reform and streamline its regulations, in line with the changes underway in this dynamic sector.

New Commission Initiatives

When I became Chairman, I set as a fundamental FCC goal providing the public with courteous and timely service. I directed our bureau chiefs to reorder priorities, to the maximum extent possible, to speed up our application processing and tariff review procedures. An internal task force was organized to resolve the large number of pending broadcast indecency complaints.

In accordance with the recent laws which require timely action on proposed new high-technology services, and expeditious action on phone company price changes, we were able to resolve more than 80 percent of the tariff backlog matters, and to authorize several new communications offerings -- for example, the Lo-Jack system for recovering stolen cars, which enjoyed the very strong support of law enforcement agencies across the country.

I also directed the Mass Media Bureau and other FCC offices promptly to act on cable television concerns. In order to assist Congress, we have accelerated a statutorily required survey report on the industry. Additionally, and for the first time in more than 40 years, we have commenced a series of national cable field hearings to give the public an opportunity to speak with the FCC Commissioners and senior staff, and to explain their concerns. Hearings already have been held in Los Angeles and Orlando, and will be held in St. Louis March 15.

We have also begun to work more closely with state regulators and other state officials. Recently, I was the first FCC Chairman to address the National Governors Association. In April, the FCC will host a first-ever "Regulatory Summit," at which all the FCC Commissioners and state regulatory agency chairmen will meet to address our common interests and concerns. We want to continue to work together, to minimize potential duplication of effort and program conflicts.

Major Areas of Interest

Mr. Chairman, the FCC is committed to maintaining the effectiveness and integrity of its overall regulatory process. At the same time, we want to take those additional steps which are needed to ensure that the United States continues to have a telecommunications and information services infrastructure that is second to none.

There are three key areas which I would like to emphasize today. These are, first, the issue of HDTV, where the FCC is responsible to adopt new standards which will usher in future generations of television. Second, there is the matter of Open Network Architecture (ONA), where the key issues involve ensuring that our telecommunications assets are available to support a broad range of new communications and information services. Third, there is the whole range of issues that have arisen regarding our management of the radio spectrum resource, and the introduction of new, radio-based services.

HDTV Concerns

Just as the convergence of computer and telecommunications technologies has produced major changes in the telephone industry, the "computerizing" of broadcasting almost certainly will yield comparable changes and advances in the television field.

HDTV services already are being offered in Japan, where large-scale government support has helped their industry to move forward. Their interest in this technology stems from their strong position in consumer electronics. But it also reflects the fact that HDTV technology will have a significant impact on the semiconductor sector, as well as on an array of other video and related products.

Domestically, we face the challenge of ensuring that any system deployed does not cause a substantial dislocation of our prevailing broadcast system, nor diminish the value of the more than $100 billion consumers and industry have invested in that system. We also need to ensure that the system we ultimately adopt is grounded in a firm research and development commitment which is keyed to the U.S. market. We want to make sure that all the succeeding technological generations of high-resolution television introduced in the United States preserve, indeed, reinforce our own unique broadcast culture and the principle of localism.

The budget request you have before you contains a proposal for six additional engineers to work on HDTV issues. It also proposes about $500,000 in further equipment, research, and contract efforts needed to support the FCC's overall HDTV effort. We believe that this is the minimum necessary to maintain credibility in this evolving, high-technology field that will have so large an impact on consumers as well as American business and industry.

Common Carrier Issues

How effectively our telephone network performs has obvious ramifications for consumers, business, and Government. The nationwide telephone system represents a national investment that exceeds $434 billion, according to the latest Commerce Department estimates. Additionally, about $239 billion in customer-owned systems and equipment is connected with, and in large part dependent upon, our backbone regulated network.

The FCC in recent years has taken a number of steps aimed at increasing the ability of consumers and industry to make use of this massive national investment. Our ONA program, for example, obligates the telephone industry to expand its offerings -- to "unbundle" its services -- to enable entrepreneurs and others to provide a wide range of computer-related, "enhanced" services. Additionally, through its regulatory reform efforts, the FCC has sought to encourage investment and efficiency on the part of the industry.

These interrelated initiatives are critical to the future competitiveness of the American economy. Last year, for example, spending for computers equalled about 3 percent of our Gross National Product. More than a quarter of business investment in equipment went to install computers and related machinery. This was in addition to our already very large installed base of computer equipment.

We can capture the efficiencies inherent in this large store of computers more effectively if we can link them using the latest in communications facilities. Achieving that linkage, however, presents a number of regulatory challenges. We need to monitor the implementation of ONA plans more effectively, and to scrutinize the tariff filings by the industry more closely as well. And, to do that will require a substantial investment in automation equipment as well as some additional personnel.

Our budget request calls for about $423,000 in additional automation and Common Carrier Bureau support. This will be employed for telecommunications regulation, and will go to strengthening our current resources and abilities in this critical area.

Radio Spectrum Management

The third major program area which I would like to discuss, Mr. Chairman, concerns our overall radio spectrum management activities.

Managing the use of the radio spectrum lies at the heart of the FCC's statutory responsibilities. This resource constitutes a linchpin, essential to the delivery of an enormous range of public, business, industry, and government goods and services. Including the sale of equipment that uses or depends on the spectrum, more than $100 billion in economic activity a year is involved.

Demands on this resource are growing exponentially. In the Eighties, new spectrum-dependent services such as cellular radiotelephones materialized, and there was large-scale growth in other radio services as well. At the same time, Government requirements, which are managed independently by the National Telecommunications and Information Administration, expanded greatly. Also introduced were many new products and systems -- microwave ovens, cordless phones, and computers, for example -- which are either dependent upon the spectrum, or susceptible to interference. Consequently, the task of accommodating all of these myriad demands has greatly grown.

One of the largest challenges we face today is finding means of allowing new and innovative uses of the spectrum, without at the same time causing harmful interference. Meeting this challenge will require us to upgrade both our computer-based analytical resources, and to engage additional expert engineering personnel. At the same time, we need more rigorously to enforce our technical rules, to reduce radio interference, and ensure an environment that is conducive to maximum use of this resource.

Our FY 1991 budget request contains funding that will help us meet these challenges. It provides for upgrading our computer and technical facilities, hiring more engineers, and rejuvenating our enforcement programs. We are proposing, for example, to expand our fleet of radio monitoring vehicles, in order more effectively to measure and police use -- and misuse -- of the airwaves. Funds are also proposed in support of our participation in the World Administrative Radio Conference which the International

Telecommunication Union will be convening in 1992. That international conference will help set the ground rules for use of the radio spectrum for the balance of the century. It is important that the United States be well-prepared to advance its national interests.

Without the resources that are called for, the FCC will be less able to meet its fundamental responsibilities to promote the larger and more effective use of the radio spectrum in the public and national interest. While radio spectrum management does not always command the high-profile visibility of other FCC responsibilities, such as cable television or HDTV, it constitutes one of our core functions. I urge the Subcommittee to support our efforts in this respect.

Conclusion

That concludes my statement, Mr. Chairman. We would be pleased to respond to any questions which you or the Subcommittee's staff might have.

Mr. Smith. Well, we are pleased to have you again this year.

I am sure there are a lot of questions, but Mr. Early had one on automation before he has to go to another hearing.

AUTOMATION

Mr. Early. I have a lot of questions that I will submit for the record.

Mr. Sikes, I was interested in your comments that the FCC will meet the challenges of increased workload by improving staff productivity through enhanced automation.

How much of fiscal year 1989 appropriations was used to improve FCC's automation?

Mr. Sikes. Fiscal year 1989?

Mr. Early. 1989.

Mr. Sikes. I do not know.

Mr. Early. How about 1990?

Mr. Sikes. One point six million in 1990.

Mr. Early. Okay.

Of the one million twenty-two that you are requesting for Fiscal Year 1991 for additional replacement automation capability, how much of these funds will be used to enhance, not just maintain, the FCC's automation capability?

Mr. Sikes. The enhancement numbers—well, I cannot—do you know the sum?

Mr. Fishel. The sum is one million. All of it would be for enhancement. The Commission still does not have all of the employees who have been identified as needing computers to do their work, having been issued computers, and so we are still trying to complete that first allocation to all of the staff.

Mr. Early. Will you expand on that for the record, and also expand for the record, what you were talking about as far as achieving the linkage that you say is necessary to make it all work?

And all the other questions, Mr. Chairman, I will put in the record.

Thank you.

[The information follows:]

Due to a major reduction in the Commission's FY 1989 appropriations, the IRM budget was reduced from $5.2 million to $2.6 million to offset the shortfall in our compensation account. Of the $2.6 million, approximately $100K was spent on new initiatives which included the purchase of equipment for ARMIS; Hyperbus equipment and departmental computers. The balance ($2.5 million) was spent on on-going contractual services such as the production of microfiche; computer operations and programming support; equipment maintenance support, software support; ADP supplies and for the upgrade of the Input-Output capability of the mainframe computer system.

The FCC's IRM Operating Budget for FY 1990 is $4.4 million. We plan to spend $1.6 million on new initiatives which include the Mainframe Replacement Technical and Engineering Study; Information Audit Study to identify and analyze the creation, use and transfer of all information within the FCC; ADP equipment for MMB License processing; Record Image Processing for the Dockets Branch; Electronic Filing Study to determine the best methodology for implementing Electronic Data Interchange and the replacement of the obsolete computers in the Field Operations Bureau's field offices. $2.8 million is required to maintain on-going contractual support services.

All of the one million twenty-two which we are requesting in FY 1991 for additional or replacement automation capability will be used for new initiatives as described in the Commission's Five-Year Information Resources Management Plan to support programs and objectives. Some of the major initiatives for which funds are requested in FY 1991 include ADP equipment and software to support specialized computing activities in the Policy and Rules Division of the Mass Media activity; ADP hardware, supplies, software and furniture to provide enhanced computing capabilities to process the increasing technical workload of the Common Carrier activity; ADP equipment and scientific software for the Authorization of Service Program to improve the accuracy and speed of service in the Licensing Division of the Private Radio activity; ADP equipment and software for the Engineering and Technology Office in support of the Commission's effort in the development of an advanced television system (ATV) and studies on congressionally mandated terrain-dependent propagation models for FM/TV licensing; and ADP hardware to provide the Commission the necessary computer technology compatibility to maintain effective relations with foreign and domestic telecommunications groups and other government agencies.

IMPACT OF SEQUESTRATION

Mr. SMITH. Mr. Chairman, I notice that in 1987 you had a $95 million budget. In 1988, it was $99 million; 1989 was $99 million; and you broke through the hundreds last year to $109 million.

But then you had a sequestration of how much?

Mr. SIKES. A little over a million dollars. It was $1,450,000, to be specific.

Mr. SMITH. How much did you ask of OMB for fiscal year 1991 originally?

Mr. SIKES. The number was $124 million, as I recall, $124,537,000.

OMB REDUCTIONS

Mr. SMITH. Now, you got the $118 million request here, roughly a $6.5 million difference. What did you request that you would like to have had that OMB cut out?

Mr. SIKES. Principally the personnel pay items.

Mr. SMITH. Is that numbers of people or——

Mr. SIKES. In addition, there were also 38 staff people.

Mr. SMITH. Thirty-eight staff people. What type of staff people?

Mr. SIKES. I think that the lion's share came in the processing and complaints areas. The increase requests came in HDTV work, improving FM processing, and there was a third area, as well, improved complaints handling for the Common Carrier Bureau. We had four additional people, two attorneys and two analysts in that area.

Those were the principal areas where we received less than what we sought.

Mr. SMITH. It didn't relate to audits for the Baby Bells or that kind of a problem?

Mr. FISHEL. We did request additional staff for the enforcement which included—we do have some additional that is in the request for that.

CROSS-SUBSIDIZATION

Mr. SMITH. Now, that is one of the more contentious items before you at the present time; how to handle the Baby Bells and their getting into the equipment business and so forth. What can you tell us about that?

Mr. **Sikes**. There is currently what is identified as a staff draft bill. I think it is the result principally of Chairman Dingell and Subcommittee Chairman Markey's efforts to legislate and reduce the courts' jurisdiction under the AT&T consent decree. I testified on that draft bill last week, and it would allow the Bell operating companies greater latitude in terms of equipment manufacturing principally and research and development. It would also allow them greater latitude in offering new information services.

In that staff draft, I should note, there is a $10,000,000 addition for the Federal Communications Commission if the bill passes—to provide new resources principally aimed at policing cross-subsidization, where Bell companies would arguably take monies out of their rate base revenue stream and use it for their competitive ventures. These new resources would also help us police any sort of discrimination, either technical or economic discrimination, aimed at Bell company competitors—those who are trying to provide information services, either through the network or independent of the network.

So there is a fiscal note, although that might not be what they call it in that bill.

Mr. **Smith**. Well, now, would this permit you to keep $10,000,000 in fees or is it just an authorization?

Mr. **Sikes**. Just an authorization.

Mr. **Smith**. So you won't have the money unless it's in the appropriation bill?

Mr. **Sikes**. That is correct.

FEE COLLECTION

Now, there is in the authorization bill, which is pending now in the Senate, although I am told—I talked to Senator Inouye about it last week, and I am told that it's beginning to move—a fee provision. I think the House had authorized 4 percent be retained of collected fees, and the Senate 2 percent.

I am not precisely sure whether there will be a reconciliation. I would hope the Senate would yield to the House in this regard, as we have been asked to increase our fee responsibilities without a corresponding appropriation.

What we are doing now is we are taking funds from a variety of other areas, and going forward with the new fee collection responsibilities.

Mr. **Smith**. Now, what do you collect in terms of fees in the last——

Mr. **Sikes**. Last year was $55,000,000, approximately, but that was a bit unusual. It was $55—it was $10.2 in 1987, and $43.5 in 1988, and then $55.9 million, as I indicated in 1989.

We are projecting $41 million in fees for 1991, which would be inclusive of the new fees, because we are only projecting $25.7 million in 1990.

That is a little awkwardly stated. Let me go back and say that we are projecting $25.7 million for the fiscal year we are now in. The fees that were added last year almost double our collections. The $55.9 million, I want to repeat, was out of order because of rural cellular applications.

Mr. SMITH. I see.

Mr. SIKES. A one-time only volume of applications.

CROSS-SUBSIDIZATION

Mr. SMITH. This legislation here, would that prohibit these companies from engaging in certain kinds of activity, or would you have to instead have auditors and try to find if they were encasing the monopoly practices?

Mr. SIKES. Well, the staff draft, on the one hand, liberalizes, it gives them more freedom; and, on the other hand, it defines with close parameters, those new freedoms.

For example, the Draft bill says they can engage in equipment manufacturing, and then gives them a lot of freedom in the research and development area but not freedom in the fabrication area.

But clearly, it does give them more freedom to get into equipment areas and competitive information services; and, therefore, it makes it more important that we have increased resources to police potential cross-subsidization.

Mr. SMITH. How many subsidiaries on an average do these Baby Bells have?

Mr. SIKES. I do not know.

Mr. SMITH. They have several, though, don't they?

Mr. SIKES. Yes.

Mr. SMITH. How would you handle the problem of determining whether the subsidiaries there are beefing up their income, the way NYNEX did?

Mr. SIKES. Okay. Well, regarding the NYNEX case that you just cited, I should condition my comments by saying that is a pending notice of apparent liability.

Mr. SMITH. Yes. I understand.

Mr. SIKES. Okay. The matter is an example of the way our audit resources are used. For example, just a few years ago, we did eight audits a year. In the most recent year, we did 25.

Additionally, we have begun requiring independent attestation audits. We also have a new automated information management system where we collect cost data and then look——

Mr. SMITH. For all the subsidiaries, too?

Mr. SIKES. No, not from all their subsidiaries.

Mr. SMITH. If you don't do it on their subsidiaries, too, you don't know whether or not they are increasing their——

Mr. SIKES. Well, we have what are called affiliate transaction rules, which get into affiliated costs and would be the rules under which we proceeded against NYNEX.

Mr. SMITH. I see.

Mr. SIKES. I might additionally say that in the staff draft that we were talking about, there are a series of provisions in each of the sections detailing when Bell companies can do something without creating a separate subsidiary, and when they must create a separate subsidiary.

Mr. SMITH. Well, what would be your personnel requirements if that bill passes?

Mr. **Sikes**. We are currently, in response to a request from our Senate oversight committee, developing that information and would provide it for the record as quickly as we could.

Mr. **Smith**. It would be very substantial?

Mr. **Sikes**. Well, we have done a great deal of work in the last three months aimed at complying with Senator Stevens' request. He asked for extensive information from us on what it would take to increase our resource base so that we could handle on a more timely basis our current responsibility.

AUDITS

Mr. **Smith**. How many auditors do you have now?

Mr. **Sikes**. Fourteen.

Mr. **Smith**. Fourteen?

Mr. **Sikes**. Yes. That answer was supplied by Mr. Richard Firestone, our Common Carrier Bureau Chief.

Mr. **Smith**. But you have—I don't want to say virtually none, but compared to the responsibility, you just have almost no capacity to handle it.

Mr. **Sikes**. That is the reason that the independent attestation audits were developed. What was that 1989, Rick?

Mr. **Firestone**. Yes, 1989 was the first year in which we received those attestation audits. Our rules require each of the firms to go out to an independent accounting firm and have an audit conducted of its books and transactions. The audits are to determine if there has been compliance with a variety of the Commission's accounting rules. After the audit investigations, the results must be attested to by the accounting firms.

Mr. **Smith**. Do you have a cut in hiring, even though those are supposedly independent audits? I mean, they know where the money came from and who made the decision to hire them. That isn't quite equivalent to you having auditors.

Mr. **Firestone**. What we then do is have those reports submitted to us. It helps us—we don't rely on them exclusively or take them at face value. We check them and use them to help target our resources more efficiently.

Mr. **Smith**. I see.

So you could very well within this fiscal year 1991 need considerably more resources.

Mr. **Sikes**. That is correct.

UNIVERSAL SERVICE

Mr. **Smith**. How do you think this problem should be handled? Have you taken any position?

Mr. **Sikes**. I have, and I have supported the staff draft bill that I earlier referred to, not in all respects, but in most respects.

I believe that what we are experiencing right now is rapid technological changes. Subsequent to the break up of AT&T, we experienced rapid changes in domestic markets. We are experiencing rapid internationalization of the market generally, and for us to keep strict rules about what a telephone company can or cannot do will preclude them from becoming a communications company.

I think this begins to be particularly troublesome in the rural areas where the bulk of people have to rely on the Bell operating companies.

Now, there are a number of independent companies that represent the rural areas, but a lot of rural America is represented by the Bell operating companies. Our hope has been—and what we are working for—that there will be an expansion of what generally has been known as universal service, although it's a different kind of expansion.

Universal service has been achieved by subsidizing basic voice telephony, and making sure that service is as widely deployed as possible. We continue to support that concept and will work hard to support it in our rulemakings and in our proceedings.

But additionally, we believe that there has to be work toward universal deployment of technology, so that in the rural areas they are able to use fiber optic digital, computer-driven networks, that those options are in place.

We believe that the Bell operating companies are going to need additional freedom; at least that is part of what is going to be necessary for that to happen.

Mr. SMITH. Well, any way you look at it, there are a lot of new electronic equipment breakthroughs virtually just around the corner, right?

Mr. SIKES. That is correct.

Mr. SMITH. Some way or another, it's got to be resolved, or we are going to be in trouble, one way or another, including video.

Mr. SIKES. That is correct.

FINANCIAL INTEREST AND SYNDICATION RULES

Mr. SMITH. Have you issued a ruling on financial interest and syndication?

Mr. SIKES. No.

Mr. SMITH. Is that imminent?

Mr. SIKES. No.

Mr. SMITH. Tell us about that.

Mr. SIKES. Okay. About, I think it was the end of last year, the Fox Broadcasting Corporation—is that what they call themselves now?

Mr. FISHEL. Yes.

Mr. SIKES [continuing]. Filed a petition with the FCC asking for us to begin a rulemaking aimed at changing the definition of a network.

A network is now defined as something programming over 15 hours of programming weekly; that is, an interconnected organization programming over 15 hours weekly. And Fox asked us to redefine what a network is, and additionally to reexamine the financial interest and syndication rules, to change those rules, as well.

We put the petition out for comment. The cycle will be completed the 19th of March, as I recall. In the meantime, we have urged the affected industries to continue to negotiate, but to negotiate in more earnest, and to try to resolve the disputes between what are basically three independent industries, the network broadcasting industry, the program production industry, and the studio independent industry. We have encouraged them to resolve their disputes and to present an agreement to the FCC which we could then inspect through a rulemaking to determine whether it is or is not in the public interest.

In other words, we won't just accept it, but we would seek to determine whether it is or isn't in the public interest.

Now, in respect to these negotiations, I met as publications have indicated with Senator Inouye. We restated our emphasis on trying to solve this through negotiation. Additionally, we are coming up on the end of the period that I spoke of earlier, the comment cycle for the Fox petition. I would think that we have got some decisions to make in the next few days as to where we will go with respect to a rulemaking.

Mr. SMITH. You anticipate there will be a rule, though, within that period of time?

Mr. SIKES. Well, it would be my guess that by years' end an examination of the existing financial interest and syndication rules will have been completed and new rules will be in place.

Now, that might result from a negotiation that is—that might be a major element in that resolution, or it might not be.

Mr. SMITH. Well, as you know, I imagine somebody informed you when you came on the Commission, we don't like to do legislating in this committee. But I think except for last year, almost every year we have had to legislate something with regard to the FCC. We get caught in the middle.

Mr. SIKES. Right.

Mr. SMITH. So I hope you get a rule one way or another, you know. I mean, because I can just see it coming now that we have got about three things hanging around, including that, and the sooner you get a rule, why the less likelihood we will have to end up legislating on something we shouldn't be legislating.

Mr. SIKES. Well, in this and in a number of other areas, Mr. Chairman, we are going to work hard to relieve the Subcommittee of those responsibilities, although obviously we will work with you in any way you want.

Mr. SMITH. Good. Thank you.

Mr. Rogers?

Mr. ROGERS. Mr. Chairman, good to see you.

Mr. SIKES. Good to see you.

Mr. ROGERS. And we welcome you to the subcommittee.

I don't know of another agency, particularly a relatively small agency, that has as big a platter of big-time issues to deal with than the FCC. And on top of that, they are extremely complicated.

So you and your colleagues have very heavy responsibilities, and few of us envy you, so we wish you well on all of these technical and far-reaching and very important economic rulemakings that you are involved in making.

On the latter subject the Chairman asked you about, would you prefer that the industries negotiate out some sort of equitable settlement of these financial issues in which each has a heavy interest involvement?

Mr. SIKES. Yes.

Mr. ROGERS. How best can you and we and everybody else help that negotiation to take place?

Mr. **Sikes**. We are working right now to determine how best we can proceed to maximize the potential of a negotiated agreement which could then be an important starting point in our rulemaking.

So I am going to be a little bit guarded in my comments because, among other things, I literally over the next few days will have to finally resolve what procedural approach we are going to take.

On the other hand, I think it would be helpful if Members of this committee could urge a successful conclusion to negotiations that have been going on for what, six years, approximately, and, could indicate support for ultimately, as the Chairman indicated, new rules being promulgated.

The current rules date back to 1970, and there have been dramatic changes in the program and broadcast markets since then. And so without commenting on whether the rules or how the rules might be changed, it's clearly time that they be revisited.

FY 1991 RESOURCE REQUIREMENTS

Mr. **Rogers**. Now, along with your anticipated workload and the kind of issues with which you are dealing with, with very large economic interests at stake, your budget request shows you are requesting an additional 28 positions for next year. That would give you a total of 1778 workers. Is that sufficient to cover your workload?

Mr. **Sikes**. No, it's not. But first of all, the request to OMB had to go to OMB shortly after I arrived as Chairman of the Commission.

I was not capable at that point of assessing with any kind of independence what resources that I felt we needed. So we went forward basically with Chairman Patrick's appropriations request.

Since then, we have been working toward an overall reappraisal, as I mentioned earlier, as Senator Stevens requested. That overall reappraisal will then form the foundation for our 1992 budget request, and I would be happy to provide the documents in detail that we are developing to the Subcommittee.

Mr. **Rogers**. Well, where are the shortfalls likely, most likely to fall in the 1991 request?

Mr. **Sikes**. I would say that in 1991 the shortfalls are most likely to be in handling consumer complaints, and dealing effectively with processing broadcast applications.

And, we will continue to suffer shortfalls in respect to monitoring and effectively investigating misuses of the radio spectrum. We continue to slip our reply standards in respect to consumer complaints. I don't recall the exact numbers, but we have gone from where we tried to reply within a month to where it's now several months before we can complete them.

In terms of FM applications, we are not adequately processing FM applications, although the Chief of our Mass Media Bureau, Roy Stewart, has done an excellent job in developing new ways. We think that with procedurally innovative steps, we can increase the speed with which we process FM applications. But I would say that is an area that will continue to suffer, compared to the standards that we would prefer to set.

Finally, our field offices are now able to act only on a reactive basis. In other words, people call in and say my particular service is experiencing interference, and we go out then and investigate and attempt to find the sources of that interference or we go out and investigate interference with satellite distributed signals. Again, there are some requests in the field that we have to take care of, but we are limited in what we can do prospectively in this area.

Mr. ROGERS. Well, how many positions did you request of OMB?

Mr. SIKES. It was 38 that weren't provided, so that presumably would be 66? Yes, 66.

Mr. ROGERS. You asked for 66 new positions; you got 28 new ones. Was the 66 absolutely necessary in your opinion to provide an adequate service that you deem necessary?

Mr. SIKES. Well, our reappraisal shows that a resource level above that is going to be necessary, and we will unhesitatingly go forward with that request to OMB in 1991. So, the answer is that those additional people would be very helpful in 1991, but I am not requesting them at this point.

We will do the best we can with what we have asked for.

HDTV

Mr. ROGERS. On HDTV, what kind of coordination do you have between the Commission and the NTIA, your former position at Commerce?

Mr. SIKES. I would say the coordination is particularly good on the technical level. And, I am having breakfast tomorrow morning with the assistant secretary; so, we continue to stay in close touch on issues.

I would say it is quite good. We do not have any formal joint projects going at present, though, Congressman.

Mr. ROGERS. Well, are our efforts in the U.S. on standards analysis, HDTV, and overall development, moving quickly enough in your opinion? Are we lagging behind?

Mr. SIKES. No, I don't think we are.

Again, it sounds like everything is on the threshold, but this is an area where it's my intent to make a statement to the HDTV Advisory Committee on the 21st of March. They will be meeting at the Commission to outline certain things that we expect of the Advisory Committee, and the associated ATTC, which is the advanced television testing center. I will speak quite specifically to when I believe we need to complete the standards work, both the Advisory Committee and the Commission itself.

I will speak very specifically to the spectrum question, how much available spectrum there might be for an advanced television system, and how it might be allocated.

But what has happened is that the countries and their companies which have led in this area have led in an effort to develop advanced television distribution systems from the satellite.

We turned in a different direction three years ago. We said we think it's important that we have an HDTV system to meet other needs. We don't want to preclude a satellite-based system. And as you know, a couple of weeks ago, there was an announcement of a direct broadcast satellite system to be launched in 1993 or 1994.

It's not our intent to preclude a new system based on satellite, but we have got an extraordinary investment in terrestrial distribution systems—broadcast systems in the first instance and cable systems that followed broadcast systems—and we believe that we need to develop standards for terrestrial systems.

That FCC action three years ago was really the first signal to American industry that we held the improvement of our terrestrial system at the highest priority level. And so really with that announcement, U.S. industry began to work not just on a satellite distribution standard and technology, but also to work to improve our terrestrial systems.

I think we are going to be in a position within the next several years to chose a terrestrial system, and I think we should then see the introduction of advanced television at the consumer level before the end of this decade.

Mr. ROGERS. You don't think the marketplace is going to overrun you waiting that long?

Mr. SIKES. I do not, not on the terrestrial. I mean, the typical theory of how the marketplace might so evolve is that the Japanese firms, which are advanced in this area—in their VCR medium and in the satellite medium—will be able to sell systems here that use VCRs to deliver HDTV signals. The theory then is that some people will buy that Japanese equipment, and it will, in turn, restrain or constrain us as to which direction we go in.

I just don't think that will happen. I just don't think that there will be that level of penetration.

Mr. ROGERS. And what of this new consortium that was announced, as you say, a few weeks ago, involving the direct broadcast satellite for the broadcast of HDTV signals? Do you see the danger of that kind of an operation getting in place before you have a chance to make your rulings on standards for terrestrial?

Mr. SIKES. No. I think we can make our rulings on terrestrial standards before that service is in place.

Mr. ROGERS. Well, it is sort of trite to say this, but a lot of America's economic future, I think, lies on the capabilities of ourselves and HDTV and other similar types of technology cows. I think that one is much the same as the space program was, and I see HDTV being a cow from whose milk we are going to gain a lot of preferable technological developments over the years.

And I would hate to see us again be shot out of the saddle by someone else, the Japanese or Germans.

Mr. SIKES. The interesting thing is that some of the best work in the area of terrestrial HDTV transmission—I am trying to make sure I distinguish that from satellite distribution—some of the best work apparently is being done here in the United States. It is being done by scientists and AT&T working together, it's being done at MIT, and by other organizations, including Sarnoff Laboratories.

HDTV SPECTRUM ALLOCATION

Mr. ROGERS. Of course, the biggest constraint, as I understand it, in our system is the lack of—or the limitation of spectrum that is available; and HDTV does take a relatively large slice

I gather from your statements here that you feel like there would be sufficient spectrum to allow terrestrial broadcast of HDTV?

Mr. SIKES. I can say tentatively that is true, but I think I have got to spell out the assumptions.

The assumption would be that HDTV is delivered within a six megahertz band. I think that the great advances that have been made in recent years in compression technologies makes that possible.

Today, they are talking about what is called a simulcast system, so that for a period of years, broadcasters would continue to send the current signal on one six-megahertz channel. That way our sets would not be made obsolete, and we could also have HDTV. We could still use the embedded base of sets.

So we devote one channel to that, and then we would devote another channel to HDTV, [i.e.,] another six megahertz channel to HDTV. Some years down the road, we could quit using that old signal and therefore could mine, if you will, all of the spectrum that had been devoted to it and have HDTV in this new six-megahertz channel.

Now, under that assumption, the tentative work by our Office of Engineering and Technology suggests that we can just about fit all of the existing broadcasters—with the exception of low-power television broadcasters—we can provide them an additional channel.

Is that basically correct, Bruce?

This is Bruce Franca, who is the Deputy at our Office of Engineering and Technology.

Mr. FRANCA. Yes, sir. That is correct.

Mr. ROGERS. I think the fears of a lot of current broadcasters is that that spectrum that would be allocated for HDTV would be taken out of the inventory for which they think might be needed for other uses.

How can you allay their concerns?

Mr. SIKES. Well, I think that is a concern principally expressed by the land mobile community.

Mr. ROGERS. Yes.

Mr. SIKES. Some believe that there are going to be innovations in land mobile technologies and associated services that are going to go wanting for lack of additional spectrum.

And I think that is a problem that we are going to have to deal with. It's one of the reasons that I have been outspoken in my support of Chairman Dingell's bill aimed at reassigning a portion of the spectrum assigned to the Federal Government for uses by the private sector.

Additionally, we are looking at new pioneering efforts in the land mobile area—techniques such as spread spectrum technology, which can provide new services without interfering with existing services.

But again, I think the fact is that there is a lot more demand for spectrum services—and maybe I should say for spectrum and related services—than there is spectrum.

I think that puts a much heavier burden on us than we have had in years past—in terms of our management responsibility: making sure that current spectrum uses are necessary, making sure that we are migrating to more efficient uses of the spectrum, making sure that new technology such as fiber optics facilitates new services. We need to take a look at the spectrum to see if there can be a migration from a spectrum-based service to a fiber-based service.

I think there is a whole assortment of issues that this relative disparity between supply and demand are forcing on us.

MODIFIED FINAL JUDGMENT

Mr. ROGERS. Well, my time is practically gone, I have probably consumed too much time here.

Let me just ask a clean-up question regarding one the Chairman mentioned earlier, that is the MFJ telephone system. I heard your statement about the rural areas. There is a significant rural portion of the country that is not served by one of the subsidiaries of the Baby Bells, but by independent rural telephone companies. My state has many of such companies.

They are concerned that in a new system, the rural areas not served by the Baby Bells would be somehow left out.

Can you reassure them?

Mr. SIKES. Let me say that the policies that we have in place to support rural telecommunications, such as averaging of rates, are going to remain in place.

Additionally, we are going to work closely with the states in joint board and joint planning activities to assure that what we do at the Federal level does not end up harming rural telecommunications.

States like Kentucky, Iowa, Ohio, and others are active in assuring that we not preempt state jurisdiction, and that we not preempt state rules aimed at protecting rural telecommunications.

Mr. ROGERS. Well, I want to just be sure that we don't forget those independent rural telephone companies not part of the Bell system, because they serve areas that I am sure have universal service and accessibility needs as well.

Thank you.

Mr. SMITH. Mr. Dwyer.

SPECTRUM INTERFERENCE

Mr. DWYER. Thank you, Mr. Chairman.

Mr. Chairman, I was pleased to read in your statement that you are asking for more money in fiscal year 1991 for upgrades of your technical facilities, your engineering and so on, affecting the allocation of spectrum as it concerns public safety and the allocation of space.

I don't come from a rural area. I come from a metropolitan area, and about once every eight or nine months, I have some public safety body descend upon my office, because someone else has now just wiped them off the air practically.

It then takes about six or seven months, or maybe a little longer, to get these things cleared up; and ultimately they do get cleared up, I am pleased to tell you that.

Will this budget before us help to get these things cleared up a little bit quicker and faster? What about the additional personnel that you are putting on?

Mr. **Sikes**. Let me say that I hope so. But let me, having said that, tell you that Dick Smith—who heads our Field Operations Bureau, can comment with a historical perspective that I simply don't have, Congressman, if that is all right.

Dick.

Mr. **Dick Smith**. It's true that most of our field people are tied up in response work now rather than going out and dealing with what used to be routine.

Our staff has been reduced in the field from 508 people we had about 10 years ago until today we have on board 382.

So we are spread a little thin, and while we are responding to most of the safety service problems, it takes a little longer now than it used to.

We hope that with some new equipment that can be used for monitoring—that will cut down on travel time and travel expense—that we can speed up the process some.

Additional people would also help.

Mr. **Dwyer**. Well, apparently you should take the time and trouble to explain this to OMB so we can get the people out there and cut this off at the pass.

Mr. **Sikes**. Yes. Again, I have to fall back, because of having been there such a brief time, to say that my first chance at OMB was when I was not particularly well prepared. But let me assure you that, in respect to 1992, we are going to make a full showing of the needs in each of the areas we have discussed.

Mr. **Dwyer**. Maybe I should ask this question of Mr. Dick Smith. I suspect that the merchandisers of this equipment really aren't as careful as they should be when they make the representations to the various police departments or fire departments and so on.

Mr. **Dick Smith**. Well, we do depend on the equipment suppliers and the installers, as well as the private frequency coordinators to all work together to help prevent problems to the extent they can.

FREQUENCY ASSIGNMENTS

Mr. **Dwyer**. Who assigns the frequency?

Mr. **Sikes**. We do. Our frequency coordinator——

Mr. **Haller**. The frequency coordinator that is most representative of the particular end users makes a frequency recommendation to the Commission.

In the case of the police radio services, there are a number of local coordinators throughout the country. They make a recommendation based on their knowledge of the local areas. That recommendation then goes to the licensing facilities.

Generally, we rely on the coordinators to make the best recommendation for interference free operation. But I have to say that with the exception of some new channels which were just recently allocated and are part of the public safety planning process, the channels are all shared. So the best they can do is "pile another apple on top of a pile of apples already there," and just make the best recommendation as to the channel that will cause the least interference.

Mr. **Dwyer**. Speaking of coordinators, are they federal employees?

Mr. HALLER. No, sir. They are private organizations.

In 1982, the Communications Act was amended to allow us to accept the services of these organizations to provide recommendations to us. And they were exempted from the Advisory Committee Act.

Mr. SIKES. But that responsibility is not delegated—the interference issue—to the frequency coordinators. I just wanted to add, this is Ralph Haller, who is the Chief of our Private Radio Bureau, Congressman.

Mr. DWYER. Well, then, the question in my mind is that when they allocate the spectrum or the crystal that determines the frequency, and a public safety organization in one community is on one area of land, and the second public safety organization, which happens to have a mountain in their district is nearby, why would the FCC then allocate the same frequency to the organization that has an antenna on top of a mountain, thereby giving them a distinct advantage to overpower the lower section?

Mr. HALLER. The best answer I can give you——

Mr. DWYER. I don't think it can work.

Mr. HALLER. These are not private channels. They are, in fact, shared channels. In the case we are talking about, had the coordinators not chosen the particular channel with Aberdeen, they would have chosen another channel which could have caused interference with somebody else.

There just is no vacant spectrum out there, so they try to make a choice where they think it's going to cause the least interference.

In this case, the Field Operations Bureau worked with the cities involved, through reductions in power and such, they were able to solve the problem. Generally, that is the way these problems have to be worked out.

Mr. DWYER. I would hope this additional personnel is going to be most helpful, but I am still amazed that there are people who are not directly connected with the government involved in making these decisions, even though they are allowed by statute to do so. Moreover, that they are making certain judgments that are in conjunction with or compatible to the merchandisers who sell the equipment.

CALLER ID

Let me ask you another question. I am starting to get some letters now on this caller ID telephone issue. Do you have a position on that? Do you expect it to reach your desk at some point in time?

Mr. SIKES. Well, I think these services have been principally offered at the intrastate or local level.

Mr. DWYER. Sure.

Mr. SIKES. So there has not been an issue put on my desk. Generally speaking, I think what are called "class services," which includes the caller ID services, I think they are good services.

Mr. DWYER. I am inclined to agree with you. But I am getting letters on both sides of the argument. I was just wondering if it would be reviewed by you.

CABLE TV REGULATIONS

One more thing, there are a number of bills in Congress now to re-regulate cable TV. Do you have a position to that?

Mr. Sikes. We will be providing to the Congress in July a comprehensive report covering all aspects of cable television. That will be as a result of the Cable Act of 1984's provision for a six-year——

Mr. Dwyer. Review?

Mr. Sikes. Yes. And we are going to cover rates, we are going to cover service, we are going to cover broadcast cable issues like must-carry and channel positioning, and we are going to cover the competitive issues, whether there is too much horizontal, or too much vertical integration for instance.

We have also started a separate rulemaking to redefine the phrase "effective competition."

In the Cable Act of 1984, Congress said municipalities could only regulate cable rates if there was not effective competition as defined by the FCC. The FCC then defined effective competition as three or more over-the-air signals.

I think that is an outdated definition, and so we have begun a rulemaking to change that definition. We would anticipate concluding that rulemaking this summer.

The one other area of cable in which we have an open proceeding on is the so-called cable-telco cross-ownership issue, which is essentially to say whether the telephone companies can get into cable. We would hope, too, to bring that in this summer.

Mr. Dwyer. All right.

Thank you.

You still have a cable TV desk, do you not?

Mr. Sikes. We do.

Mr. Dwyer. Did you get many calls at that desk?

Mr. Sikes. I think we have gotten a lot of calls.

Mr. Dwyer. Even though you don't regulate, you are still getting a lot of calls?

Mr. Sikes. That's been especially true since the syndicated exclusivity rules took effect.

Mr. Stewart. I am the Chief of the Mass Media Bureau.

We do have a cable branch, and it gets a wide range of questions from the public, ranging from service problems to questions about the Commission's new syndicated exclusivity rules. So there is a constant flow.

Mr. Dwyer. Thank you very kindly.

Thank you, Mr. Chairman.

Mr. Smith. Mr. Regula.

Mr. Regula. Just one question. You mentioned that three on-the-air channels would be a definition of a competitive situation. Are you talking about the three majors? If you had a community that had CBS, ABC and NBC and one cable company, that would be considered to be effective competition?

Mr. Sikes. That is correct. That circumstance that you outlined would be considered effective competition under the current rules.

Mr. Regula. Do you think that is really realistic when there might be six on-the-air——

Mr. Sikes. No, I do not.

Mr. **Regula**. And you are thinking of redefining that?

Mr. **Sikes**. That is correct.

Mr. **Regula**. That is all, Mr. Chairman.

Mr. **Smith**. Mr. Carr?

AUDITS

Mr. **Carr**. Thank you, Mr. Chairman.

Nice to see you today. How many auditors are at the FCC?

Mr. **Sikes**. Well, the Common Carrier Bureau is something that I think was discussed before you came. It has 14 auditors that audit the companies.

Now, beyond that, I think we have some additional audit resources.

Mr. **Firestone**. There is the Accounting and Audit Division, which has a number of personnel involved in establishing accounting rules, reviewing cost allocation manuals, and such.

As far as auditors who are able to go out in the field and audit companies, and able to review the audits performed by independent CPA firms, we have 14 now.

Mr. **Carr**. What portion of that FCC audit staff performed in 1990's audit?

Mr. **Firestone**. There were approximately, I believe, 6,000 person hours invested in that audit during the course of the past year and a half. It obviously was a major undertaking for the Bureau and took a substantial part of our resources.

Mr. **Carr**. Well, it appears to me, and I am sorry, Mr. Chairman, if I am going over plowed ground, I just flew in from Michigan where there was four days of fog in Detroit, and the airport was closed last night, so I couldn't get back until I immediately walked in.

I applaud your increase in budget, and I think your audit staff is in one of the areas that needs some help.

I have many concerns, and many of them may not be of the nature of the ultimate work of this committee. At some point, I would just like to sit down with you and some people on your staff, and I won't take up the committee's time.

FINANCIAL INTEREST AND SYNDICATION RULES

I noticed when I walked in, however, you were talking about the financial interest and syndication rules. Just so that you know that we don't all sing from the same sheet of music up here, I would like to let you know that as far as this Member is concerned, I would try to codify the rules and really take it away from the FCC.

I look at it, Mr. Chairman, more as a matter of government regulation over the culture of the country. I know that there is a large amount of money that is at stake here.

I think there is a large amount of money at stake here, and who wins and who loses in that is surely an issue that Congress and the FCC speak about from time to time on a variety of issues.

But in reaching beyond that, there are a lot of things that have changed in terms of technology, among other things, since the rules were put into place. But I wonder what you see as changing in the cultural environment that would further concentrate the power over cultural decisions in the hands of your people?

Mr. **Sikes**. Well, I am not sure that it is the most extraordinary cultural development. I am not sure I think of this as cultural so much. But clearly there are people who contend that it is.

The Japanese have just bought Columbia Studios and the Italians are in the process of buying MGM-United Artists, and there are those who contend that excluding the networks from getting into the programming business—while allowing the Japanese and the Italians to buy our studios—is culturally unfortunate.

Now, that is the only way I have had the issue presented to me in cultural terms. The reason that we have agreed to take another look at the rules is because the Fox Network has said that the network rules preclude them from being able to fully develop a fourth network that could compete against the three existing networks, and that, therefore, our rules are working against increased diversity, that is working against the establishment of a full fourth network.

Probably the major factual change since these rules were put into place in 1970 is the fact that the networks' power has declined as new independent stations have been licensed, as cable television has provided some other choices, and as the VCR has taken hold.

Mr. **Carr**. Well, I don't want to take up the time of the Committee, but I guess I could find vigorous disagreement with you on each of those points.

I think I would become concerned about the cultural diversity of America if I thought every producer of video material had to either sign up with a network or Sony.

But that isn't the case. We have a tremendous independent industry in America that produces a variety of offerings. And they continue all work for Sony. I think it's regrettable that Sony bought Columbia and that we see more of our bigger studio assets going to foreign ownership.

I am not sure there is anything we can do about it, and if we do, I am not sure the FCC should do it. Maybe other agencies will look at this issue.

But putting aside the gigantic studios for a minute, we have a tremendous production diversity base out there, new entrants in it every day, people who come in and succeed and some who fail and fall by the wayside. But it's a vibrant part of the economy, and one that contributes greatly to our cultural diversity.

I know that there are all these other technologies, and I appreciate that the independent stations are coming to the fore. But after all, I look at the TV stations and I see independent stations providing reruns of shows that were formerly on the broadcast channels, and I don't think that while they might rival in another business forum and be competition for some viewers, I still don't see that as an excuse why the networks ought to be the primary creators of the cultural offerings of this country.

And I would like to give you an alternative point of view. Members of Congress from time to time suggest to people that they ought to negotiate. And we pick up this theology of the negotiation, whether it's this or anything else, and the negotiation becomes sacrosanct.

I think basically that is buck passing. Congress doesn't want to make a key decision, or maybe an executive agency or an independent agency doesn't want to make a key decision.

The better thing to do, the easier thing to do, the one that cuts all of our budgets and all of our time is to suggest that we negotiate, and then we don't have to make tough choices.

I actually think that this one is too important for the country to be negotiated by private parties when you, yourself, in your testimony said that you would use the negotiation as a starting point, which is hardly encouraging to the parties at the negotiating table to come to an agreement.

Mr. SIKES. Well, let me tell you what I mean by that.

Mr. CARR. Okay.

Mr. SIKES. First of all, I, too, hold in high regard independent production, and the diversity that it provides. When I made my earlier comments stating what some assert, those were not intended as points somehow in conflict with your thinking.

But if the parties negotiate some arrangement, we cannot simply change our rules because the parties have come to us and said, all right, we have made this deal, now embrace the deal and change your rules.

We would have to have a rulemaking. We would have to seek comments and go through the full Administrative Procedure Act due process requirements before we could embrace, in whole or in part, whatever the parties had negotiated.

So we are not abandoning our responsibilities in this regard.

Mr. CARR. Well, I know, I know we are not in the formal sense. Who could be opposed to a negotiation? That's applehood, mother pie, and negotiations. In this particular instance legislators should not be putting pressure on parties to negotiate as a way of getting Congress out of a dilemma.

I would be the first person to say to the concerned parties that they really shouldn't negotiate this one. In terms of our culture and the artistic values that we have in our society, this one's not for negotiation.

I think we want to have diversity. I like the rules the way they are, and if I had my way, I would codify them.

But anyway, I appreciate our meeting and hopefully can have many discussions in the future. Maybe we can negotiate on some of these.

Mr. SIKES. Thank you.

Mr. CARR. Thank you, Mr. Chairman.

RELOCATION OF FCC

Mr. SMITH. Tell us about the anticipated move, or is it anticipated?

Mr. SIKES. Yes, it is. I think we have got three leases, and the first one to expire will expire in April or July of 1993. We are working with the GSA toward making a move possibly by that date.

Mr. SMITH. Do you have a place selected?

Mr. SIKES. No, we do not. We have narrowed down possible locations.

Mr. SMITH. What are you paying per square foot where you are; do you know? I know you pay GSA, but you don't know what GSA is charging?

Mr. SIKES. I do not. We can provide that for the record, Mr. Chairman.

Mr. SMITH OF IOWA. You know, you were slated to move, I guess it's been 10 years ago, and——

Mr. SIKES. Twenty-seven dollars per square foot is the number I have just been handed.

Mr. SMITH. Anyway, you are paying $10 at the time, but it was up for a new 10-year lease, and for some reason couldn't seem to find adequate space, and so we gave the chairman of the Commission authority to go out and look for it himself instead of waiting on GSA.

He went over to Twin Towers and found some very good space at $17 per square foot with the right to renew the lease, and so when the time came to move, they decided well, they had just rather stay where they were. And supposedly, they were supposed to get that lease renewed at less than $17. And maybe they did. You may be paying GSA more than they are paying for the lease.

But anyway, the space was available. But some people just didn't want to be bothered going across the river. You could have had good space, the right to renew. Some people just don't want to move out of Washington, D.C. They are set, and that is the way they want to stay. So we will be watching this lease arrangement because having been offered a space at $17 and turned it down, there had better be good reasons for getting another space, and they had better not be paying $40 a square foot for something and think they are going to get the money to move into it.

Mr. SIKES. I don't have the historical perspective that you have just recited. I know that, in respect to the current effort to locate a new site, that 34,000 less square feet are being sought. Over a period of 20 years, that would save approximately $28 million. I presume that is with the anticipated square footage cost of this new office space; is that not correct?

Mr. SMITH. First, you would have to meet—you don't have to, but there are recommended square footages per person. You keep adding personnel and so on and so forth.

But anyway, as you are talking to GSA, I just want you to know that we will watching that, and we do remember the history of it, and they had better not be asking for money to move to some place in Washington, D.C. that is going to cost as much as some agencies are paying now because you don't have to be in Washington, D.C. It isn't absolutely necessary for your particular purpose. You agree with me, don't you?

Mr. SIKES. I have never studied that issue, Mr. Chairman. I don't know whether it's totally required or not.

Mr. SMITH. Twin Towers would have been a very good location for you, and everybody doesn't have to be five minutes from the White House. We are competing against ourselves for space is what we are doing, driving up the cost astronomically. I cannot believe what has happened to office space rental costs here.

Even down here in Southwest Washington it went from $17 to about $35 in a matter of two or three years, and competing against ourselves for space on the streets and for everything else.

We just have to do something different .

Thank you, very much.

FEE COLLECTIONS

Mr. **Rogers**. Let me ask just a few more questions.

The Chairman asked about fee collections, and you mentioned the authorization bill. Suppose that authorization bill does not pass. Where do you go then as far as fee collections?

Mr. **Sikes**. We don't think we have any discretion, Congressman, and so we will just take a million and a half dollars from someplace else, and that will come out of the areas that we have gone over. It will come out of processing, enforcement, it will come out of rulemaking.

Mr. **Rogers**. I don't know whether it could take place or not. It won't be new to this subcommittee, but would you object too much if there were language in our bill that allowed the fee collections to continue?

Mr. **Sikes**. No. I certainly—are you speaking of—well, maybe you might elaborate on that.

Mr. **Rogers**. Well, maybe I had better not.

Mr. **Sikes**. You have got me in an area where I suspect I should rely on counsel.

Mr. **Rogers**. Assuming the authorization committee does not put language in that allows fee collections, and of course the Appropriations Committee supposedly does not put authorizing legislation in an appropriations bill, and it has happened once or twice in history. It's not commonly done, but it's something that legally can be done.

Is that something you could have a problem with if it did happen?

Mr. **Sikes**. My view is I don't have a problem resolving this. So if that were the best approach to resolving it, I would be happy to work with you.

Mr. **Rogers**. Thank you.

Mr. **Smith**. Thank you very much for testifying today, Mr. Sikes.

[The following questions were submitted to be answered for the record:]

Questions Submitted by Congressman Smith

Impact of Sequestration

Question: How much was the reduction in your FY 1990 appropriation as a result of sequestration, and what will be the impact of that reduction on your activities?

Answer: Sequestration reduced the FCC's FY 1990 appropriation by $1,450,000. That reduction resulted in a partial hiring freeze (1 for 2) with FY 90 year-end FTE levels projected at 1750 versus 1783 originally requested. This reduction in personnel is likely to result in delays in processing licenses and applications Commission-wide, deferral of some enforcement activities and delays in policy/rule-making activities. Sequestration also has resulted in reduced funding for FOB/OET technical equipment replacement, delays to ADP initiatives and reduced travel funds.

Request to OMB

Question: How much was your request to OMB for FY 1991, what items did OMB eliminate from that request, and what will be the impact of those reductions on your FY 1991 program?

Answer: The FY 1991 OMB request was for $121,478,000. OMB then instructed the Commission to add costs for civilian and SES payraises totaling in excess of $3 million but only provided funding for 50% of the payraise. Adding that funding to the OMB passback mark of $116,637,000 brought the ceiling for FCC's Congressional submission to $117,998,000. The total reduction to programmatic and base areas to accommodate these changes was in excess of $6.5 million. The following reductions were made:

- o $2.5 million - Compensation and Benefits to provide 38 additional FTEs Commission-wide and also reduced the base FTEs to accommodate absorbing 50% of the cost of civilian and SES payraises. Activities affected are: Authorization of Service (5 FTEs); Enforcement (9 FTEs); Public Service (8 FTEs); Management Support (11 FTEs); Rulemaking, International and Computer Support (5 FTEs).
- o $2.7 million - Base and programmatic reductions to ADP equipment and support including: Replacement of ADP equipment Commission-wide; replacement equipment for ARMIS system and replacement of 33 obsolete terminals for Common Carrier Activity; Phase II of replacement plan for field computer system and enhancement of electronic mail capabilities for Field Operations Activity; data links between Laurel Laboratory and Headquarters mainframe for Engineering and Technology Activity.
- o $0.7 million - New and replacement technical and other equipment and upgrades of vehicles for field enforcement for Field Operations Activity.
- o $0.3 million - Repairs to field office facilities including security systems for four offices and installation of antennas and other repairs at the Livermore, Ca. office.

- $0.3 million - Other areas including training, office supplies and relocation of employees.

These reductions will reduce the ability of the Commission to meet its goals of expeditious processing of licenses and complaints and could impede our enforcement and monitoring activities.

Status of Authorization

Question: What is the status of your authorizing legislation for FY 1991?

Answer: FCC authorization legislation for FY 1990 and FY 1991 passed the House on October 30, 1989. The House levels are: FY 1990, $109,831,000 and FY 1991, $121,478,000. The authorization legislation has not yet passed the full Senate. However, the Senate Commerce Committee on October 5, 1989 approved $109,831,000 for FY 1990, and $119,831,000 for FY 1991.

Chairman's Assessment of the Commission

Question: In your statement you indicate that you are troubled by what you have found at the FCC and concerned about the Commission's ability to perform effectively all of its functions. What specific matters are you concerned about?

Answer: The budget reductions over the past four years have adversely affected all of our programs. Most significantly, our ability to keep pace with technological and service developments that are critical to our economy has been limited. This has affected such key policy initiatives as advanced television, advanced personal communications, AM expanded band, and 800 operator services. In addition, licensing has slowed in many areas including cellular radio, land mobile, private microwave and FM facility changes. For example, FM licensing delays have increased from 7 months to 24 months and land mobile licensing delays have increased from 22 days to 120 days. Limited enforcement resources have affected carrier audits, routine broadcast and cable TV inspections, and our response to interference and other types of complaints. For example, common carrier formal complaints processing has increased from 15 days to 16 months while informal complaints has increased from 87 days to 276 days. Our representation at international conferences and meetings has been restricted due to limited travel funds. Also, our public reference rooms services have suffered and some public education efforts have been curtailed.

Question: On page 2 of the justifications you state, "The impact of reductions over the past four years has and will continue to affect the Commission's activities." Which of your activities have suffered the most because of budget constraints?

Answer: All program areas have been adversely affected. Most significantly, our ability to keep pace with technological developments has been limited. Reduced staffing has affected key policy initiatives such as advanced television, enhanced personal communications, AM expanded band and 800 operator services. In addition, licensing has slowed in many areas including cellular radio, land mobile, private microwave and FM facility changes.

Recently in the FM facility change area, we have reduced the processing times from seven months to four months. This was done through reallocation of resources from other areas. Although we attempt to prevent it, diverting resources from one service area to another can simply shift the issue to a different service.

Additionally, limited enforcement resources have affected common carrier audits, routine broadcast and cable TV inspections, and our response to interference and other types of complaints. Our representation at international conferences and meetings has been restricted due to travel fund shortages. Also, our public reference rooms services have suffered and some public education efforts have been curtailed.

Question: On page 3 of the justifications you estimate that the delay in processing TV/FM and cellular applications will result in a loss of $52 million in federal tax revenues. Since processing an application always involves time, at what point does normal processing time become a processing delay?

Although, different types of applications have different processing time demands as a general matter, we should be able to act etc., within one year. To monitor our speeds of service to the public, the Commission has recently established for each application/service type, the "desired speed of service". While we currently have significant gaps in some cases between this "desired" and our actual speeds of service, we plan to request additional resources in future budget years to close them.

New Commission Initiatives

Question: What has been accomplished as a result of the establishment of the FCC Internal Task Force to resolved the large number of pending broadcasting indecency complaints, referred to in you statement?

Answer: Since August of 1989, the Commission has reviewed and disposed of a backlog of nearly 100 facially documented indecency complaints which had been filed over more than a two year period. Our initial review of these complaints resulted in letters of inquiry addressed to 7 licensees and notices of apparent liability (NAL) for monetary forfeiture addressed to 5 licensees. Three licensees have subsequently paid forfeitures in response to NAL's; the remaining cases are now in various stages of enforcement processing. With respect to new complaints, 34 complaints have been received since August which have been accompanied by a transcript or recording of the allegedly offensive broadcast. The Commission has dismissed 25 of these complaints and is currently reviewing 9 for possible further action. In short, the existing complaint backlog has been eliminated and new complaints are being processed on a current, ongoing basis.

Question: Please tell the Committee how the Lo-Jack system for recovering stolen cars works.

Answer: The system consists of a radio receiver-transmitter installed in a hidden location in the motor vehicle, tracking devices mounted in police vehicles, and a computerized network of radio transmitters. When a vehicle equipped with a Lo-Jack device is reported stolen, the vehicle's unique identification code is transmitted over the network. When the signal is received by the stolen Lo-Jack-equipped vehicle, the transmitter portion of the device is activated and begins transmitting its identification code. The vehicle can then be tracked by the specially-equipped police vehicles. Mobile transmitters operate with 2.5 watts power output and base stations operate with up to 290 watts effective radiated power. Both use a maximum bandwidth of 20 kilohertz. Vehicle transmissions are of very short duration (approximately 200 milliseconds every 10 seconds), except that when a vehicle is tracked actively, transmissions are increased to 200 milliseconds every second. All the devices operate on the frequency, 173.075 megahertz.

Question: What other communications offerings has the Commission authorized?

Answer: In the past year we have authorized frequencies for a new 900 MHz fixed microwave service, the next generation weather radar, and for telemetry and control of private launch vehicles. In addition, proposals were developed for HDTV, Air-Ground telephone, expanded AM radio, digital land mobile satellites, and low-power spread spectrum applications.

Cable Survey

Question: When will the statutorily required survey report on the cable television industry be submitted to Congress?

Answer: July 1990.

HDTV

Question: The FCC is responsible for the adoption of new standards for HDTV. When will the Commission be in a position to adopt these standards?

Answer: The Commission has established a target date of early 1993 for issuance of a Report and Order finalizing its action on HDTV standards. Our ability to meet this date relies on timely receipt of recommendations from the industry Advisory Committee on Advanced Television Service, testing candidate HDTV systems, completion of our own studies and analyses, and completion of a period for public comment on the proposed standards.

Question: What is the total amount in your budget request for HDTV issues, what is the current level of resources for this activity, and how will the additional resources enable you to fill your responsibility in this area?

Answer: In this fiscal year, the Commission will expend about ten work-years on HDTV-related responsibilities. The work efforts include oversight and participation in work of the industry Advisory Committee on Advanced Television Service, further activities in the Commission rulemaking proceeding on HDTV, and performance of in-house technical studies and analyses. In addition, about $50,000 has been spent to acquire equipment needed for some of the technical studies.

The Commission's FY 1991 budget request contains a total request of $706,000 for HDTV activities, consisting of $211,000 for six additional personnel positions, $50,000 for technical equipment, $300,000 for contractual program assistance, and $145,000 for a technical microcomputer. Five additional engineering positions will be devoted to carrying out studies involving spectrum use and technical factors affecting implementation of HDTV, participating in tests of proponent HDTV systems and reviewing tests carried out by the advisory committee, and developing appropriate technical standards. One additional position will be an attorney to work on policy development in the rulemaking proceeding. The $50,000 requested for technical equipment will permit purchase of specialized test equipment for studies of technical factors, such as effects of varying signal strengths, and the technical characteristics of proposed HDTV systems, all of which must be considered in planning for implementation of HDTV. The $300,000 requested for contract assistance will be used for developing a new TV channel allotment scheme and implementation procedures by applying sophisticated decision-making techniques to optimize results. The channel allotment scheme will take into consideration effects of propagation phenomena, equipment characteristics, and population distribution and other social criteria. The technical microcomputer will be used to support the advanced television technical analyses as well as other technical projects.

Question: What are the estimated costs to continue the studies and research into HDTV for future years?

Answer: We expect Commission HDTV-related efforts in FY 1991 through FY 1993 to be very intensive. During those years, testing of proponent systems will be conducted, selection of an HDTV system (or systems) should take place, development of transmission and equipment standards should be completed, channel allotment plans will be developed, and implementation of HDTV broadcasting should be initiated. Additional personnel and equipment will be required. For FY 1991, we have requested personnel positions and computing capability to support the Commission's program, funds for technical equipment that will enable studies of the interference effects of proposed HDTV systems, and funds to begin developing a new TV channel allotment scheme by applying sophisticated decision-making techniques. For FY 1992, we anticipate requesting at least two more engineering positions to assist in technical analyses, system testing, and standards development. In addition, we will request about $550,000 for technical equipment, which will be used in technical studies related to spectrum allotment planning factors, interference related tests of prototype HDTV systems, and subjective tests needed to help the Commission select HDTV systems for implementation. For FY 1993, we anticipate requesting about $200,000 for technical equipment to purchase system-specific video equipment, based on Commission decisions regarding systems chosen for implementation, which will be used in studies to finalize the plans for implementation of HDTV and to develop test procedures for the FCC equipment authorization program.

By FY 1994, planning for HDTV services should be largely completed and implementation should be underway. Resources will be applied to station licensing, equipment authorization, and evaluation of the new services. We do not anticipate a need for additional personnel for these activities. However, we believe that about $100,000 will be needed in each of FY 1994 and FY 1995 to purchase measurement equipment for evaluation studies and to purchase test equipment required in the equipment authorization program.

Open Network Architecture

Question: Please describe the issues involved in "open network architecture."

Answer: The Computer III proceeding created a new regulatory framework to govern BOC participation in the enhanced services marketplace and to open up network capabilities to competing providers of enhanced services. The Commission found in 1986 that imposing "structural separation" requirements on the BOCs in their provision of enhanced services resulted in lost innovation and efficiency, and that a set of nonstructural and other equal access safeguards could effectively safeguard against possible anticompetitive activities by the BOCs.

Our Open Network Architecture (ONA) requirements are a key component of the safeguards necessary to ensure full and fair competition between BOC and non-BOC enhanced service operations. They are designed to promote the efficiency of the telecommunications network by requiring BOCs to develop and "unbundle" certain network services useful for the provision of enhanced services. In developing ONA safeguards, the Commission has considered a variety of issues of competitive equity, including access to ONA services, pricing of ONA services, and access to customer and network information useful for enhanced service providers.

CCB Automation Funding

Question: You are requesting an increase of about $423,000 for automation and other support for the Common Carrier Bureau for telecommunications regulation. How does this square with the rule-making proceeding the Commission initiated March 8 in which the Commission tentatively concluded that interstate long-distance services as a whole are now subject to significant competition?

Answer: The bulk of the additional funding referenced in your question will be used in support of regulatory activities relating to the interstate access services of local exchange carriers, such as planned improvements to the Commission's Automated Reporting Management Information System (ARMIS). ARMIS is an electronic data base and associated reporting requirements that enable the Commission to gather, store, and analyze information about carriers' costs, cost allocations, and ratemaking. Such activities are unaffected by the Commission's March 8 proposals to modify regulation of AT&T.

Moreover, the Commission tentatively decided not to modify regulations governing AT&T's domestic Message Telecommunication Service (MTS) and ReachOut America service, which are the AT&T services purchased primarily by residential and small business consumers. Therefore, the Commission will also require resources to continue regulatory activities regarding these services.

Long-Distance Competition

Question: What facts does the Commission possess that led it to the conclusion that there is sufficient competition in the long-distance telephone market?

Answer: The FCC's tentative conclusion that there is sufficient competition in portions of the long-distance market to warrant adapting current regulatory constraints was based on an analysis of several factors, including: the market shares of long-distance carriers and changes therein; the supply capabilities and financial strength of AT&T's competitors in the marketplace; and the lack of entry barriers. In tentatively concluding that the market for business services, in particular, was highly competitive, the FCC also considered demand elasticities that are unique to the business services marketplace, the size, power, and sophistication of purchasers of business services, and pricing patterns for business services.

In its review of available information, the FCC found, among other things, that AT&T's share of switched interstate minutes has fallen from approximately 84% to 66% during the past five years and that certain studies indicate that AT&T's market share for business services may be closer to 50%, or even less. It found, as well, that there are currently approximately 273 carriers purchasing equal access service from the local Bell Operating Companies (BOCs), with at least four carriers purchasing equal access in every state served by a BOC, and with AT&T's principal competitors offering virtually every service offered by AT&T in every state. In addition, the FCC noted that many of AT&T's competitors have engaged in extensive capital investment programs that should allow them to operate as effective competitors to AT&T well into the future. The FCC also noted that AT&T has priced its business services well below the ceiling rates allowed under price cap regulation, thereby indicating competitive market constraints beyond any regulatory constraints on the pricing of these services. The text of the Notice of Proposed Rulemaking, which should be publicly released in the next few weeks, will contain a more extensive discussion of the information currently available on the extent of competition in the long-distance telephone market.

Staff for Informal/Formal Complaints

Question: You're requesting additional staff to handle informal and formal complaints as an outgrowth of deregulation. Why couldn't this need be met through the transfer of staff no longer needed to work on formal regulatory proceedings?

Answer: The implication of this question is that there are no longer formal regulatory proceedings being conducted. This is not true. There are numerous regulatory proceedings of major public interest importance being pursued that demand significant efforts by our Common Carrier Bureau staff, such as the future regulation of the long distance market, Open Network Architecture, and price caps. Since FY 1985, the FCC staff allocated to common carrier activities has dropped from 330 FTEs to 308 FTEs, while the number of competitors and overall industry revenues have increased dramatically. During this same time period, the workload has increased in most categories. For example, the number of cellular applications filed grew from 31,637 in 1986 to over 101,687 in 1988, the number of tariff pages requiring review grew from 71,464 in 1985 to 178,972 in 1989, and mobile applications grew from 2,819 in 1987 to 6,225 in 1989.

FTEs have been shifted among organizations to try to respond to the most pressing increases in workload without critically undermining other programs. For example, during FY 1989, prior to submission of our FY 1991 budget request, 4 FTEs were reallocated to the Enforcement Division from other common carrier activity organizations to assist in responding to formal and informal complaints. The Enforcement Division workload also increased during this period. We estimate that the number of formal complaints pending at the end of the fiscal year will increase approximately 33% from FY 1990 to FY 1991.

Therefore, despite the 1989 FTE reallocation, an additional 4 FTEs are required as requested in the budget document. As stated on page 68 of the budget document, in addition to the increase in both the volume and complexity of the work, the Enforcement Division also has been severely impacted by enactment of the 1988 FCC Authorization Act. It requires the Commission to issue final, appealable orders in certain tariff-related complaint proceedings within 12 months after the complaint is filed. Further, the Act prohibits the Commission from delegating authority to the Bureau to decide these cases as has been the norm in the past. The impact on the Enforcement Division has been severe, and additional FTEs are required.

Question: What else needs to be done to reduce or eliminate the backlog of these complaints?

Answer: We estimate that increasing Enforcement Division speed-of-service to desired levels would require the following additional resources: 25 FTEs, 16 terminals, 1 microcomputer, and $15,000 in travel funds.

Price Caps

Question: Has the Commission established a program to monitor the performance of AT&T and the local exchange carriers (LECs) under the regulatory system known as price caps, and if so, what is the cost of that system?

Answer: The Commission's decision to implement price cap regulation for AT&T included an extensive review of existing and new monitoring devices that would be used to ensure that the price cap system would produce rates that are just, reasonable, and nondiscriminatory, and that would guard against service quality degradation. For the most part, the Commission found that existing monitoring devices could be employed without fundamental modification. For example, the Commission's automated reporting system, ARMIS, collects information on revenues, expenses, investment, reserves, and taxes. These data are used to track the allocation of costs between regulated and nonregulated activities and between intrastate and interstate jurisdictions. ARMIS also collects data on switched messages, conversation minutes, and access minutes. In addition to ARMIS, the Form 492 data collection requires AT&T to report on a total interstate basis revenues, investment, expenses, and earned rate of return. The Commission also receives semi-annual reports from AT&T measuring service quality over AT&T's digital and analog facilities, as well as Section 214 applications that provide AT&T's construction plans and demand forecasts. An additional service quality monitoring report also is required, focusing on service quality in non-equal access areas. The Commission's complaint process is also a source of information on AT&T service quality. Finally, the price cap system enables the Commission to track price levels on an aggregate basis.

For the LECs, the Commission similarly has proposed to employ its ARMIS and Form 492 reporting mechanisms to monitor LEC performance under price cap regulation. In addition, the Commission has proposed to expand its current service quality monitoring system for LECs to include the following measures of the quality of interstate access: (1) percentage of time a carrier installs service by the quoted installation date; (2) the number of hours necessary to complete a repair; (3) a "network blocking" percentage, i.e., a measure of calls that receive a "no circuit" condition; (4) formal FCC complaints per 1,000 access lines; (5) post-dial delay; (6) transmission quality; and (7) switch downtime. The Commission proposed to receive service quality reports quarterly and will closely monitor its established complaint processes.

Under the AT&T plan and the LEC proposal, each price cap system would be completely reviewed during the fourth year of the plan, or earlier if a comprehensive review were warranted on the basis of ongoing monitoring of carrier activities. The performance review would include, but not be limited to, actual prices, achieved rate of return, quality of service, and technological progress.

Monitoring of AT&T's performance under price caps will largely be conducted pursuant to activities that the Commission already undertakes. The addition of a service quality report for non-equal access areas served by AT&T expands only slightly the existing service quality monitoring effort. Thus, implementing price cap regulation for AT&T does not increase the Commission's administrative costs.

With respect to proposed monitoring of the LECs' performance under price caps, most of the monitoring activities that would be employed are already in use under the rate of return system. The service quality monitoring proposals would expand the number of LECs reporting to the Commission and require an incremental increase in Commission staff time required to review and maintain a larger number of reports. The increased amount of staff time devoted to this process appears manageable from a resource perspective.

NYNEX Corporation Audit

Question: What were the findings of an FCC audit into the NYNEX Corporation?

Answer: The FCC issued a Notice of Apparent Liability based on a staff audit of transactions among certain NYNEX affiliates. The audit found that these companies had not complied with applicable FCC rules and policies governing transactions between regulated telephone carriers and their nonregulated affiliates. Specifically, the audit focused on transactions between NYNEX's nonregulated procurement affiliate, Materiel Enterprises Co. (MECO), and NYNEX's two regulated telephone companies. The audit revealed that MECO's sales to the regulated NYNEX telephone companies comprised 93% of its total business. In addition, the audit found that MECO achieved earnings substantially in excess of the authorized rate of return for the regulated carriers. Further, the audit disclosed that MECO's prices on sales to the telephone companies reflected high and erratic markups. Moreover, the audit found that NYNEX corporate policy required its telephone companies to purchase certain product lines and services from MECO, virtually ensuring that the regulated carriers served as a captive market for MECO.

The audit concluded that MECO had charged the telephone companies excessive prices for products and services, and quantified these overcharges by comparing MECO's earnings over the relevant period with the authorized rate of return for the regulated carriers. This followed the policy established by the Commission in Docket No. 19129 and later incorporated in the Commission's affiliate transaction rules. In this manner, the audit found that Materiel Enterprises had overcharged the NYNEX telephone companies $118.5 million from 1984 through 1988. The audit further found that the carriers, in turn, violated the Commission's rules by recording these inflated charges on their books as regulated costs. As a result, the audit concluded that interstate ratepayers had suffered overcharges of $35.5 million. The FCC's subsequent Order to Show Cause and Notice of Apparent Liability for Forfeitures proposed accounting and ratemaking adjustments to correct for past and potential future harm to interstate consumers as a result of NYNEX's actions, and also proposed stiff forfeiture penalties.

Question: As a result of the problems uncovered by this audit, what recommendations would you make to Congress which may consider legislation to free the regional Bell operating companies from the restrictions imposed by the Consent Decree?

Answer: The NYNEX audit demonstrates that this Commission has in place effective accounting rules and other safeguards that counteract the inappropriate shifting of costs to ratepayers. It also demonstrates that our auditors are able to enforce those rules. Those accounting rules and our enforcement program will also be effective in policing any cross-subsidization of the Bell companies new lines of business.

Random Lottery

Question: What is the current status of the Commission's proposal to implement a random lottery procedure for new AM, FM, and television stations?

Answer: The comments responsive to the Commission's Notice of Proposed Rule Making have been received and the record is being reviewed. The Commission has received suggestions from the Federal Communications Bar Association and from others as to alternative changes in the existing process that might expedite final decisions and these suggestions are also being actively reviewed. It is my personal view that the Commission not go forward with this proposal.

Question: How would this procedure affect the backlog of applications for new stations and the workload of Commission employees?

Answer: I am doubtful that the Commission will proceed with this proposal and, accordingly, believe that any discussion of implementation would be hypothetical.

Cable Television Amendment

Question: If the Cable Television Act is amended to require reregulation of cable rates, what would be the increased cost to the FCC of such an amendment?

Answer: Re-regulation of cable rates at the municipal and state levels of government would not have any significant resource implications for the Commission unless the Commission played a stronger role in establishing accounting or other standards to facilitate the process. The return of this task to local government would, however, have significant resource implications for the local governmental agencies involved.

Involvement by the Commission as a rate setting agency itself would have major resource implications, requiring the Commission to acquire additional computer capacity as well as make an annual investment of between 40 and 50 workyears of staff effort. These estimated resource requirements could, however, be substantially higher or lower depending on the proportion of the industry subject to regulation and the specific nature of the process to be implemented.

Question: On page 46 of the justifications you are showing 196 investigations but no on-sight investigations. Is the lack of on-sight investigation due to a lack of funding?

Answer: Were funding available, we estimate that there might be as many as ten on-site investigations each year by Washington-based staff. Funding shortages in recent years have necessitated changes in the methods employed to conduct investigations. In place of expensive on-site investigations, we conduct most investigations by telephone and mail, supplementing the results with on-site investigations by field office personnel. We have found these procedures to be adequate in most cases. Nevertheless, there are occasions when on-site investigations by Washington-based personnel would be most desirable. It is important for the credibility of our enforcement program that the Commission have the capacity, and be widely known to have the capacity, to verify written submissions by direct observations and to send investigators to the actual locations of witnesses, documents, and licensed facilities.

EEO Audits

Question: On page 59 of the justifications you are requesting additional travel funding of $10,000 to increase the number of on-site EEO audits of cable television systems. Why do you want to increase the number of on-site EEO audits since you are not conducting any on-site investigations for violations of FCC rules?

Answer: Specific statutory provisions relating to equal employment opportunities in the cable television industry were adopted as part of the Cable Communications Policy Act of 1984. The legislative history relevant thereto states:

> in order to ensure compliance with this section, the Commission is directed to annually review the employment profiles of reporting employment units, including random on-site audits of some reporting units. These audits will provide the Commission with a basis for determining whether employment profiles are accurately reported on classification and employee responsibilities are accurately defined.

House Committee on Energy and Commerce, H.R. Rep. No. 934, 98th Cong., 2nd Sess. (1984). See also 130 Cong. Rec. S14,286 (1984).

The proposed audit activity is intended to comply with this direction in the context of a vastly expanded cable television industry and to provide a measure of assurance that information reported to the Commission pursuant to the provision of Section 634 of the Cable Act is accurate. It is not intended to indicate that on-site investigations of other violations of FCC rules and policies should receive a lower priority.

Domestic Travel

Question: On page 14 of the justifications you list a request of $829,000 for domestic travel, which represents an increase of 95 percent over FY 1989. What is the reason for this significant increase over the past two years?

Answer: This increase over the FY 1989 level represents an attempt to return to adequate levels of response in our Field Operations Activity in order that reduced personnel levels can respond more quickly to increased numbers of complaints, perform investigations, and monitor special activities such as the operation of Radio and TV Marti. Without adequate funds the Field Operations Activity will be unable to respond to complaints of interference except in those situations regarding safety of life and property. With reduced levels of trained personnel available in the regions it is imperative that travel funds be available to relocate and/or detail experienced personnel between regions to fill critical vacancies which cannot be filled outside the agency. Funds are necessary to provide for travel while testing prototype monitoring vehicles and equipment in an actual working environment.

The Mass Media Activity plans to perform audits and inspections of stations for compliance with Commission rules and regulations which have been postponed during the past two fiscal years. Common Carrier audit teams will require funds to perform two additional audits to ensure that carriers are not subsidizing their nonregulated operations from their regulated operations. Travel for Emergency Broadcast activities has been increased to support FCC's continued active participation in efforts to upgrade the national Emergency Broadcast System (EBS) and to update state and local EBS plans to provide a more viable EBS. The importance of this project was clearly illustrated following the devastating effects of Hurricane Hugo and the San Francisco earthquake in the fall of 1989.

Funds are requested to enhance public and private sector interaction on telecommunication issues, such as the three regional hearings on cable issues which were held during the second quarter of FY 1990. The increase to domestic travel is required if the Commission is to respond to mandates of the Communications Act.

Program Assistance

Question: On page 16 of the justifications you list $1.4 million for program assistance. This amount is an increase of over 800 percent since FY 1989. What is the reason for this substantial increase in just two years?

Answer: The most significant increase is for the cost of having the Department of Agriculture's National Finance Center (NFC) provide the Commission with total financial cross-servicing at an estimated cost of $508,000 over a two-year period (FY 1990-FY 1991). This interagency agreement will bring the Commission into compliance with Office of Management and Budget (OMB) and General Accounting Office (GAO) requirements for an integrated agency financial system. The only alternative to this option would be the design of new in-house automated systems for our payroll and financial management activities. This alternative would be much less cost effective in terms of dollars and staff productivity. Utilization of NFC resources will also enable the Commission to implement the new fee schedule and maintain the fee program with minimum operational costs to the Commission.

An additional $300,000 is for continued funding of consolidation costs to be incurred in FY 1991. The $300,000 dedicated to the consolidation effort is essential if we are to have the expertise to relocate three headquarters facilities into a central location. These funds will be utilized by the General Services Administration (GSA) to provide enhanced planning and design of all telecommunications and automation networking requirements within the new building, as well as special architectural analysis to provide design criteria for such elements as reference rooms, libraries, and the Communications Center. Since our space is so severely restricted under GSA guidelines, this degree of analysis and planning is essential in order that the limited space available be utilized to the optimum benefit of the Commission and the public it serves.

$300,000 is requested for HDTV studies/analysis. These funds will be used to develop a new TV channel assignment table for HDTV in the United States. The development of this new table must take into consideration spectrum availability, co-channel station spacing, population served, preservation of existing stations and a number of other technical and policy questions. This type of study is essential if the U.S. economy is to benefit from this new technology.

$50,000 is requested for minimal level participation in an interagency agreement with the National Communications System (NCS) concerning emergency operations; $40,000 provides Bureau of Census data to the Common Carrier Activity; $50,000 is requested to provide investigative support to the Inspector General. The remainder of this account provides support for our Older Americans Program, participation in a Rutgers University telecommunications study, and miscellaneous interagency agreements.

Increase for Equipment

Question: On pages 17-18 of the justifications you list a total request of about $6 million for technical equipment, ADP equipment, and office equipment and furnishings. This amount is an increase of over 500 percent since FY 1989. Could any of these equipment purchases be stretched out into future years?

Answer: The FY 1990 total equipment allocations reflect an increase of approximately 67% over FY 1989 in an attempt to begin to rebuild our critical technical equipment inventory. These funds will provide the Field Operations and Engineering and Technology Activities with replacement technical equipment required for basic mission accomplishment. Obsolete, unreliable or inoperative equipment must be replaced to maintain current capability. The majority of this equipment should have been replaced in prior years, but was deferred because of funding shortages to avoid furloughs.

In FY 1991 the increases for technical equipment will not only continue to fund replacement equipment, but will attempt to provide equipment which will extend current capabilities to meet growth in the use of telecommunications facilities and services by the private sector. Without additional funding to support technical equipment requirements in FY 1991 the Commission will be unable to respond to many interference complaints in a timely and effective manner, some involving safety of life and property.

Without equipment upgrades, the fixed monitoring network may be unable to quickly and reliably locate vessels and aircraft in distress, or be unable to reliably monitor user compliance levels. Both fixed stations and mobile units will have limited capability to monitor UHF spectrum above 800 MHz (land mobile, cellular). The FCC laboratory will be unable to keep pace with the evolution of telecommunications equipment and therefore be unable to improve testing productivity.

Without the requested funds for ADP equipment, the Commission will be unable to replace the outdated and obsolete FCC mainframe computer system (Honeywell) which was purchased in 1974. Failure to replace this system will result in unacceptable service interruptions due to equipment failures and substantial increases in hardware/software maintenance costs. The Commission will be unable to replace aging office automation network equipment and implement improved software systems (modern word processing, graphics, etc.). With inadequate funds the Commission cannot implement new IRM technologies to meet critical requirements such as optical imaging and electronic filing.

The most significant increase, approximately 56% of the total FY 1991 request, is for the systems furniture required by GSA to accommodate our space restrictions in the proposed new facility. The systems furniture is essential if the Commission is going to be able to accommodate the total number of Headquarters employees in the space available. GSA's mandate of 130 to 135 square feet per workstation will not allow for the traditional configuration/compliment of office equipment for each employee. The proposal for the use of systems furniture was initiated by GSA and was not an independent decision of the Commission. The systems furniture must be purchased one year in advance of the actual relocation. Therefore, total funding for this requirement must be available in FY 1991 if the Commission is to relocate in FY 1992.

Further increases to our technical and ADP equipment accounts are expected. However, we have developed multi-year plans (5) for cyclical replacement of ADP and technical equipment in order to maintain our operating integrity and reduce budgetary impact.

Purchase of Furniture

Question: On page 118 of the justifications you are listing a request of $3.4 million for the purchase of furniture for a scheduled FY 1992 relocation of the FCC.

a. Has a specific building been located for this move, and if not, how can you be certain that systems furniture ordered in FY 1991 will meet your needs at a new location?

Answer: No, we are still working with GSA to identify a building for the Commission. The systems furniture requirement is based on space allocations to accommodate a predetermined number of workstations, assuming the Commission will have the personnel levels similar to the FY 1991 proposed levels in the budget.

b. What does the Commission plan to do with the existing office furniture after moving to a new building?

Answer: Only some staff will utilize systems furniture. Senior staff will continue to utilize current furniture. Excess furniture will be returned to GSA to reissue to other government agencies, as needed.

FY 1992 Relocation

Question: What is the estimated cost for the FY 1992 relocation?

Answer: We estimate that the total cost of this effort will be about $10 million. We are not sure at this time which parts will be paid by GSA and by the FCC. Most of the costs will be in FY 1992 when we are scheduled to move.

Ranking of Program Increases

Question: You are requesting a total of $6,874,000 and 28 positions and program increases for FY 1991. This is the largest program increase that the Commission has requested in a number of years. How would you rank these increases?

Answer: We believe that the requested programmatic increase of $6,874,000 and 28 FTEs (positions) is the minimum increase necessary to maintain critical operations within the Commission. However, the request could be ranked or prioritized in the following manner. First, we requested $914,000 to fund a total of 28 FTEs to provide expertise and support to the authorization of service (7 FTEs), enforcement (13 FTEs) and rulemaking (6 FTEs) activities as well as 2 FTEs to enhance participation in the National Emergency Broadcast System (EBS). Without these additional positions we will not be able to meet the objectives of the Commission. Second, we have requested $1,508,000 in funding to provide the Commission with the modern tools necessary to respond to our mandate including technical equipment to maintain monitoring and enforcement capabilities in our Field Operations Activity and provide adequate test capabilities at our Engineering and Technology laboratory. Funds for enforcement vehicles and Commission-wide automation enhancements have been included in this amount also. Third, we have requested $852,000 to upgrade the effective operation of the Commission including funds for travel, both domestic ($110,000) and international ($34,000), contracts for financial cross-servicing, HDTV studies, audit activities, and participation in National Communications security programs ($608,000) and infrastructure upgrades in the region ($100,000). Finally, we have requested $3,600,000 to purchase systems furniture and antennas for the anticipated consolidation of three Commission offices into one facility in FY 1992. The General Services Administration has instructed the Commission to purchase the furniture in FY 1991 in order to provide adequate lead time for a delivery date in FY 1992.

Reprogramming Procedures

Question: Why does the FCC control and report planned reprogrammings on an object class basis when the provision in the annual appropriation acts refers only to program, project, or activities as the areas of operations for reprogramming identification and reporting?

Answer: The Commission identifies and reports reprogramming proposals by object class in an effort to comply with the requirements set forth in the appropriation language. The Commission's financial operations are for the most part centrally controlled by the Office of the Managing Director and provide support to all Commission programs and activities. The annual appropriation is sub-divided or allocated to programs in a manner consistent with the decisions of Congress. However, the Commission does not have in place an automated financial system nor the personnel resources to provide management of resources by activity as reported in the President's Budget to Congress.

The resources reflected in the budget document by activity represent the cumulative amounts of specific Bureau and Office funding allocations, over which they have specific control, plus the prorated support costs required to maintain the routine operation of the activity. This includes the costs for personnel compensation and benefits, awards, security, space, rentals, printing, supplies, miscellaneous contractual services, and all ADP support provided to an activity in support of Commission objectives.

The Commission has reported reprogramming proposals by object class in a conscientious effort to provide the Appropriations Committees with a clear and accurate accounting of appropriated funds. The Commission has never proceeded with a reprogramming action and/or expenditure of funds until approval was granted by both Appropriations Committees.

Question: Does the Commission have the accounting capability to relate obligations in a timely manner to its budget activity structure in order to identify reprogramming needs by activity or program and to notify the Appropriations Committees thereof in advance, as required by the annual appropriations acts?

Answer: No, the Commission does not have the accounting capability to directly relate obligations to activities for reporting purposes. Funding proposals in the FY 1991 budget would allow the Commission to cross-service all financial transactions with the Department of Agriculture's National Finance Center. This will significantly improve the Commission's accounting/ reporting systems.

Inspector General

Question: The budget justifications show that the Inspector General's Office of the Commission has a staff of four. Does your budget request provide sufficient resources to meet the requirements of the Inspector General Act Amendments of 1988?

Answer: Yes, we believe it does.

Question: On page 43 of the justifications you are requesting an increase of $50,000 for contractual assistance. What type of contractual assistance does the Inspector General need in order to fulfill its mandate?

Answer: These funds would provide access to external resources with particular skills which may not be available from within the Inspector General's own staff. These funds would also address the immediate need for additional assistance when multiple investigations are being conducted simultaneously.

ARMIS

Question: How much has been spent on the ARMIS system to date, and is it now fully developed and in operation?

Answer: To date the Commission has expended $539,000 on ARMIS. The Commission began implementation of ARMIS in FY 1987 with an outlay of $281,000 followed by incremental enhancements in FY 1988 and FY 1989 of $208,000 and $50,000 respectively. It is fully operational at this time.

Question: How much in additional funds will be needed?

Answer: The ARMIS system has been implemented and has supported numerous investigations and data requests related to the regulation of communications common carriers, including the review of the 1989 Access Tariff filings, the verification of regulated and nonregulated inside wire expenses and overhead costs, and verification of local exchange carrier joint cost attestations audits. Funding of $90,000, adjusted for inflation as needed, is required in order to maintain the existing level of review of tariff filings and joint cost and separations compliance. Such funding is extraordinarily cost-effective because our review thus far has resulted in more than one billion dollars in savings to telephone customers through the disallowance of potential charges.

Although ARMIS is operational, funding will be needed for maintenance and replacement of equipment, and to upgrade hardware and software. Personal computers will be replaced as they become a repair burden, in order to reduce maintenance costs and lessen the risk of productivity losses due to frequent breakdowns. As the staff's review of ARMIS data increases in volume and complexity, hardware and software upgrades will be necessary for the computers to handle more involved computational processes. For example, the system now contains sufficient data to make trend analyses available for use in reviewing the 1990 Access Tariffs due to be filed on April 2. In addition, state regulatory commissions have expressed great interest in accessing ARMIS, and in working with the FCC on further enhancements.

Questions Submitted by Congressman Alexander

High-Tech Consumer Services

Question: Mr. Sikes, legislation pending before the Congress and advances in telecommunications technology may soon combine to provide a wide range of high-tech consumer services almost unimaginable to those of us who have spent most of our lives with what the phone industry calls "POTS", or "plain old telephone service."

Specifically:

1) the Bell Operating Companies hold out the hope of a wealth of information services to be provided to homes and businesses if Congress passes legislation overriding the Modified Final Judgment in the AT&T divestiture case and allowing the BOCs into the information services business;

2) much of the telephone industry is calling for legislation allowing them into the cable television business, arguing that they can provide much greater consumer choice through fiber optics than the cable industry can through coaxial cable; and

3) telephone, computer, and other interests tell us that fiber optic technology could open up a limitless world of interactive audio, video, and data services for homes and businesses.

I am concerned that, in an absence of Federal regulation, these exciting new telecommunications services will be available only in urban, high-volume, high-profit areas for a long time to come.

Please provide for the record your views on how to assure universal service in:

1) information services that might be provided under MFJ legislation currently pending;

2) enhanced cable television service that might be available through fiber optics; and

3) other new telecommunications services that might be available through fiber optics.

Answer: Technology is redefining the capabilities of the local exchange network at an ever increasing pace. In view of these advances, and the critical importance of telecommunications and information services to U.S. economic and social development, limiting the concept of universal service to the provision of "POTS" no longer serves the public interest. That concept must be broadened to include a more universal opportunity to access new technologies and applications.

Simply broadening the universal service concept is not enough. Government must make the concept a reality by creating a regulatory environment that encourages the development of a feature-rich, intelligent local exchange network, one that allows small and large companies alike to serve their customers effectively wherever they are located.

To accomplish this goal, Government first must change existing policies and rules, such as the MFJ information services restriction, that are discouraging R&D, reducing competition, driving new functions out of the public network, and denying certain American subscribers access to services already available to those served by many independent companies. For this reason, I applaud the Congress' increasing inclination to exert strong legislative leadership on this and other telecommunications policy issues.

The FCC also can play a positive role. Network investment is a prerequisite to a feature-rich, intelligent network, and the FCC can and will continue to develop and implement policies that promote such investment. Price caps regulation for local exchange carriers is one example. The Commission also will continue to support existing policies designed to facilitate network investment and the provision of service in rural areas, such as geographic averaging, the unitary rate of return, and the Universal Service Fund.

Fiber optics technology also could yield an expansion in the number of available cable television channels at a cost which is significantly below that of equivalent new capacity achieved through conventional technologies. As video service markets become more competitive -- in part due to recent FCC actions aimed at facilitating the emergence of "wireless cable" and related over-the-air technologies -- the deployment of high-capacity fiber facilities by cable companies should accelerate.

These programs, together with continued technological development, can, and to a significant extent are, eliminating the basis for a telecommunications and information dicotomy between urban "haves" and rural "have-nots."

Questions Submitted by Congressman Early

Question: What impact did the sequester have on FCC operations?

Answer: Sequestration reduced the FCC's FY 1990 appropriation by $1,450,000. That reduction resulted in a partial hiring freeze (1 for 2) with FY 90 year-end FTE levels projected at 1750 versus 1783 originally requested. This reduction in personnel is likely to result in delays in processing licenses and applications Commission-wide, deferral of some enforcement activities and delays in policy/rule-making activities. Sequestration also has resulted in reduced funding for FOB/OET technical equipment replacement, delays to ADP initiatives and reduced travel funds.

Question: The administration is requesting $117,998,000 for FY '91. Is this request sufficient to cover the impact the sequester had on the FCC?

a) What was the FCC's original request to OMB?

b) How would those additional funds have been used?

c) 77% of the FY '90 appropriation is currently earmarked for salaries and benefits to your employees. If the FOC in FY '91 is appropriated the amount requested by the administration, what percentage will be for salaries and benefits?

d) What percentage will be for discretionary and non-discretionary pending?

Answer: The harm done in FY '90 in terms of delays will only be partially offset in FY '91 by the small staff increase requested.

a) The FCC's FY 1991 budget request to OMB was $121,478,000. OMB then instructed the Commission to add costs for civilian and SES pay raises totaling in excess of $3 million.

b) The Congressional budget submission was $117,998,000, a reduction of $6.5 million. Funds would have been used in the following areas:

- $2.5 million - Compensation and Benefits to provide 38 additional FTEs Commission-wide and also reduced the base FTEs to accommodate absorbing 50% of the cost of civilian and SES payraises. Activities affected are: Authorization of Service (5 FTEs); Enforcement (9 FTEs); Public Service (8 FTEs); Management Support (11 FTEs); Rulemaking, International and Computer Support (5 FTEs).
- $2.7 million - Base and programmatic reductions to ADP equipment and support including: replacement of ADP equipment Commission-wide; replacement equipment for ARMIS system and replacement of 33 obsolete terminals for Common Carrier Activity; Phase II of replacement plan for field computer system and enhancement of electronic mail capabilities for Field Operations Activity; data links between Laurel Laboratory and Headquarters mainframe for Engineering and Technology Activity.
- $0.7 million - New and replacement technical and other equipment and upgrades of vehicles for field enforcement for Field Operations Activity.

- $0.3 million - Repairs to field office facilities including security systems for four offices and installation of antennas and other repairs at the Livermore, Ca. office.
- $0.3 million - Other areas including training, office supplies and relocation of employees.

c) 75% of the FCC's requested FY 1991 budget is earmarked for salaries and benefits.

d) The remaining 25% of the FCC's requested FY 1991 budget is earmarked for other accounts besides salaries and benefits, and must cover all discretionary and non-discretionary spending.

Question: The FCC projected that the Federal government would lose $52 million in tax receipts in FY '89 due to delays in processing TV, FM, and cellular radio licenses. Is this still the FCC's projection?

-- How much does the FCC project it will lose in FY '90 and 91?
-- What impact will the 28 additional FTE's have on these delays?
-- What amount of funds would be needed to end the processing delays and stop the loss of tax receipts?

Answer: When inadequate FCC resources inevitably cause delays in the processing of necessary FCC licenses, permits, and authorizations, this adversely affects Federal, state, and local tax revenues. A primary effect is the taxes which FCC-authorized entities might otherwise pay are not paid. In addition, there are secondary effects attributable to lower levels of economic activity in other non-FCC regulated sectors. Available input-output analysis indicates, for example, that each $1 invested in telephone facilities induces about $1.35 in economic production or activity in other non-telephone sectors. In broadcasting, this multiplier effect is even greater -- about $2.15 for $1. What this means, of course, is that the potential tax revenue consequences of underfunding essential FCC regulatory activities go far beyond simply those attributable to the regulated sector. Conversely, needed increases in FCC resources and, as a result, more rapid establishment of new FCC-regulated enterprises, can reliably be expected to yield disproportionately large tax revenue gains.

In fiscal year 1989, the FCC incurred a very severe resource shortfall -- some $5 million. As a result, regulatory delays considerably increased. Our estimate of the primary and secondary tax consequences -- about $52 million in Federal revenues alone foregone -- was premised on that severe shortfall.

In fiscal year 1990, the FCC will be able to reduce some, but by no means all, processing delays, although the 28 additional FTEs represent only about 18 percent of the fiscal year 1989 cut ($924,000 compared to $5 million). This modest reduction in delays, in turn, could lessen the earlier projected $52 million Federal tax revenue loss. At the same time, however, an increased volume of applications, and further delays in certain sectors (e.g., cellular radiotelephone) may offset those marginal gains.

Consequently, even with the modest restoration of necessary resources the FCC experienced in fiscal year 1990, our best estimate is that the Federal tax revenues foregone will remain at least as great -- about $52 million annually --for fiscal years 1990 and 1991 as was true in 1989.

We estimate that an additional 85 FTEs ($2.7 million) for our licensing activities would eliminate most of our backlogs, help us meet our desired speed-of-service targets, and thus minimize the loss of Federal, state, and local tax revenues.

Inspector General Activity

Question: The FCC is requesting $442,000 for the Inspector General Activity. This is an increase of 85% over FY '90's Appropriation. This request proposes no increases of FTE's, but includes $50,000 for contractual program assistance. Why did the FCC choose to contract out for audit and investigative services, instead of doing it in-house?

Answer: The Office of the Inspector General was established in March of 1989 after the FY 90 budget had already been submitted to Congress. The IG appeared for the first time in our FY 1991 budget. However, to establish the Office, the Commission initially provided minimal funding reprogrammed from other activities. The FY 1991 Budget is our first attempt to provide adequate funding specifically for this Office.

The $50,000 for contractual program assistance would provide access to external resources with particular skills which may not be available from within the Inspector General's own staff. These funds would also address the immediate need for additional assistance when multiple investigations are being conducted simultaneously.

Question: The FCC is requesting $201,000 for total personnel compensation and $34,000 for total personnel benefits. Both of these requests are 160% increases over FY '90's Appropriation. Why is such a large increase requested?

Answer: See response above.

Investigations

Question: One of the objectives of the mass media activity was to conduct on-site investigations of allegations of flagrant violators of Commission rules and policies. However, no on-site investigations took place. What steps are being taken by the FCC to fulfill its objective of on-site investigations?

Answer: To the extent feasible, personnel from the Commission's field offices are conducting these investigations. Priority is given to all matters involving potential safety of life issues.

Question: The FCC is preparing a comprehensive study of the cable industry regarding rates and competition. What is the current status of this report? What are some of its preliminary findings?

Answer: Comments in the general inquiry proceeding were submitted on March 1, 1990 and reply comments are due April 2, 1990. Comments in the more specific proceeding relating to the "effective competition" definition are due April 6, 1990 and replies are due May 7, 1990. Commission hearings regarding cable television regulation were held on February 12, 1990 in Los Angeles, California, on March 2, 1990 in Orlando, Florida, and on March 15, 1990 in St. Louis, Missouri. In addition, the Commission, in cooperation with the General Accounting Office, has undertaken a survey of cable television rate changes and associated issues. The survey forms have been sent out and the responses are now being reviewed. The Commission is now in the process of reviewing the information that has been received. However, not all of the information is yet on file. Thus, no preliminary findings are available at this time. We expect to complete the report in July and submit it to the Congress.

Cable Rates

Question: I have received many complaints concerning the increase in cable rates in my area since the 1986 deregulation of the cable industry. One source has stated that there has been an increase of 55% in basic cable rates in Worcester since 1986. How does this increase compare to other cable area increases? Does the FCC believe these increases are acceptable, or does something need to be done to curtail this upward trend in cable rates?

Answer: The Commission's survey of cable rates changes is not yet complete. However, the August 1989 General Accounting Office survey (Telecommunications: National Survey of Cable Television Rates and Services), found that the average monthly rates for the lowest price basic service tier increased by 29 percent and the monthly rate for the most popular basic tier increased by 26 percent between December 1986 and October 1988. During this same period the average number of basic channels offered increased from 24 to 30 on the lowest priced basic serve tier and increased from 27 to 32 on the most popular basic cable service tier. The increases appear to be large enough to warrant some very careful review and the Commission is undertaking this review in the pending proceedings. Whether the increases are acceptable depends not just on the magnitude of the increases but the factors underlying them, such as, for example, whether they are associated with cost increases faced by the cable system operator or are being imposed notwithstanding efficiencies and economies that the system operator has achieved as its operations mature and penetration levels increase.

Syndex

Question: I have received many complaints, especially from my elderly constituents, regarding the implementation of the syndex rule which took effect January of this year. Could you provide me some details on what effects this rule has on the consumer and the cable industry? How does blocking out programming of superstations help the consumer?

Answer: What the rules attempt to do is to protect exclusive rights in programming so that the market can function properly in allocating how television product is distributed by broadcast stations and cable systems. With these rules in place, if particular types of programming are found to be valuable to cable subscribers then cable system operators can negotiate for and carry this programming. The same is true for broadcast stations. The rules protect only programming that stations have negotiated for and paid for on an exclusive basis.

In adopting the rules, the Commission found that unrestricted importation of distant signals (i.e., with no exclusivity protection) leads to duplication of programming in local broadcasting areas; this duplication lessens the value of syndicated programs to broadcast stations; that loss of value, in turn, lowers the price syndicated program suppliers will receive from their programs; and all of this ultimately reduces programs supply, which translates into a reduction in the diversity of programming available to the public.

Under these rules, incentives are created for both local and distant stations to respond to the interests of viewers and not simply to duplicate programming already otherwise available. Superstations desiring access to cable subscribers in distant markets have an opportunity to negotiate for program rights so that they are not deleted. Because of their desire to serve cable subscribers, the two most popular "superstations," WGN and WTBS, have purchased rights that make them virtually deletion proof.

Although the reintroduction of the syndicated exclusivity rules on January 1, 1990 has created considerable concern on the part of affected subscribers to whom program losses are highly visible and long term improvements not yet apparent, I believe that most of the problems are transitional in nature.

Question: Are the ratings for local broadcasters for a particular program severely impacted by a superstation showing that same program? How much of an impact is it?

Answer: It is my understanding that there are considerable variances in possible ratings impact based on factors such as the nature of the local and imported stations involved, the channel positions of each on the cable system, and the strength of the schedules of each. Studies reviewed by the Commission in the course of adopting the rules were in virtually unanimous agreement that substantial duplication of programming was involved. Estimates of viewer diversion ranged between 5 percent and 80 percent of the audiences broadcasters are able to achieve, with most of the estimates lying in the 25 to 45 percent range. See Report and Order in Docket 87-24, 3 FCC Rcd 5299, para. 36 (1988).

Price Changes - Filing Time

Question: The FCC is proposing plans to allow AT&T to shorten its filing time for price changes for large corporate customers. What impact will this have on the long distance business?

Answer: The goal is to promote competitive options for consumers and thereby ensure that the public continues to reap the benefits of the competitive process.

In order to ensure that these benefits continue, the Commission's policies and processes must encourage, not undermine, marketplace competition. On the one hand, the Commission must fulfill its fundamental responsibility to protect ratepayers and competitive markets. On the other, it has to ensure that its rules do not stymie legitimate competition. Overall, a balance must be struck to ensure that the Commission's rules provide companies the opportunity to compete freely and fairly in the marketplace, rather than in regulatory proceedings.

The Commission has demonstrated its commitment to protecting ratepayers and competition with a series of strong enforcement actions taken in recent months. In conjunction with these enforcement actions, and no less important, the Commission also seeks to adapt its regulations to changing marketplace conditions. Based on a review of currently available information, the Commission tentatively has concluded that competition in long distance has increased sufficiently to allow a gradual lifting of many regulatory constraints, particularly those relating to the provision of service to large business customers.

We have put forth a package of proposals, including a proposal to shorten the notice periods for certain types of large business customer tariff filings. Current notice requirements require AT&T to announce new service offerings and rate plans well in advance, giving competitors time to begin, and possibly complete, development and implementation of a market response. This delays the benefits customers receive from AT&T initiatives, discourages such initiatives, and tends to reduce incentives for other carriers to take initiatives because they can rely on advance notice of AT&T proposals. Thus, instead of protecting the public, current notice requirements actually may be delaying or preventing consumers from realizing the benefits of rate decreases and new service offerings.

Question: The FCC seems to be heading toward a more deregulated telecommunications market. Won't more FTEs than requested be needed in the common carrier area to monitor a freer, more deregulated telecommunications market? What will the cost be to the FCC to monitor a deregulated telecommunications market?

Answer: Adapting regulation to changing market conditions does not necessarily create a deregulated telecommunications marketplace. Each of the regulatory steps we are taking recognizes the need for effective safeguards, vigorously enforced. As noted previously, an extensive monitoring system already exists. Full funding of budget requests should provide sufficient resources to administer this system adequately. We are detailing for the Congress the resources necessary to provide the best possible service.

Question: If both the Baby Bells and AT&T become more deregulated, what steps must be taken by the FCC to ensure that competitors of the Baby Bells and AT&T will be protected from unfair practices?

Answer: The Commission will continue to develop and enforce competitive safeguards. Indeed, the NYNEX audit demonstrates that workable and effective safeguards against anticompetitive cross-subsidization already exist and are being administered effectively. The recently initiated long distance proceeding, moreover, addresses the need for competitive safeguards and seeks comment on what kinds of safeguards are necessary in changing market conditions.

Competitive Bidding

Question: Chairman Patrick last year proposed the idea of having a competitive bidding process for the spectrum which is currently unassigned. He stated that this could increase revenues to the treasury by about $3.3 billion. What is the current status of this proposal?

- **Mr. Chairman, do you agree with this proposal?**
- **Could you provide the advantages and disadvantages of this idea?**
- **1989 sales of radio stations alone totaled over $2.7 billion, and 1990 sales thus far are over $232.5 million. Although the treasury receives funds through tax revenues on sales, the federal government is receiving nothing for the use of its spectrum. It's giving away one of its most precious natural resources. Do you believe something should be done to rectify this situation:**
- **What, in particular, could be done to reclaim this resource which we have, for all practical purposes, given away?**

Answer: Yes. I believe that the FCC should be permitted to use auctions to grant initial licenses for certain services. I agree with my predecessor that such authority should not apply to broadcasting, public safety, or amateur licenses.

Auctions would benefit the public in three important ways. First, auctions are likely to be the fastest way to assign a license to the party who values it the most. Regardless of the selection method, licensees have considerable freedom to transfer their licenses. Thus, the method of assignment can be expected to have little effect on who holds a license in the long run. But auctions should substantially reduce the delays involved in the initial assignment and the incentives for resale.

Second, using auctions to assign licenses could substantially reduce the total private and public cost of preparing and processing applications. Comparative hearings and lotteries use up substantial resources, primarily the time of lawyers, engineers, and economic consultants preparing lottery applications or materials for a comparative hearing. Under an auction, on the other hand, much of the private expenditure of obtaining a license would be a transfer of resources to the government in the form of a winning bid. Auctions would also lower administrative costs compared to lotteries by weeding out frivolous applicants--those who have no intention of operating but only hope to gain through reselling a license won in a lottery or being bought out before the lottery even takes place. Third, auctions would give the taxpayer a return for the valuable privilege conferred in a license.

For those new licenses to which it would be applied an auction would end the practice of giving away the right to use a valuable public resource. But, from the perspective of the FCC, the revenues are not the major benefit of auctions. We see auctions primarily as a better method of awarding new licenses.

Questions Submitted by Congressman Dwyer

Question: As you may know the Conference Agreement to the FY 90 Commerce, Justice, State Appropriation bill included the following language: "The conference agreement includes $30,000 for the FCC to subscribe to the Rutgers University Wireless Information Network Laboratory (WINLAB). The conferees expect the Commission to move expeditiously to subscribe to this important technical information source."

I understand the Office of Engineering and Technology has approved the transmittal of this $30,000, and that legal counsel at the Commission is now reviewing it.

What is the status of this review?

When does the Commission estimate that Rutgers will receive this $30,000?

Answer: The Commission has pursued efforts in accordance with federal procurement regulations to become a sponsor of the Rutgers University Wireless Information Network Laboratory. The scheduled implementation of the contract is April 9, 1990.

Question: Does the Commission agree exploring the long-term wireless telecommunications field and future ramifications is an area in which joint industry, education, and government participation is crucial?

Answer: Promoting efficiency and innovation in the allocation, licensing, and use of the electromagnetic spectrum constitutes one of the FCC's major goals. Joint efforts involving industry, Government, and other experts are important to achieving this goal. House Energy and Commerce Committee Chairman John Dingell has proposed legislation which, in part, envisions an advisory committee comprised of experts from a variety of pertinent disciplines and experiences reviewing federal radio frequency requirements. The FCC has generally supported the fundamental thrust of that proposed legislation.

Question: If the FCC has more resources to work with, would the Commission be more actively involved with similar industry projects/endeavors?

Answer: Additional resources, particularly additional travel money, would permit FCC personnel greater opportunity to participate in a variety of radio spectrum management and standards development activities. Such additional travel could also be accomplished by revising current provisions regarding permissible travel reimbursement. The authority to be reimbursed for travel has been helpful in the past.

Question: Is Japan, the European Community, or other major competitors more active in such joint industry/government type proposals?

Answer: In the United States, there is, and long has been, close and extensive collaboration between government and radio communications equipment and systems suppliers -- and a number of colleges and universities -- chiefly to develop defense-related command, control, communications, and intelligence systems. Such multifaceted consortia have explored some non-defense communications market options. MIT's Media Laboratory, for example, has worked with (and received financial support from) a variety of sources to examine high-definition television options. The European Community has initiated several programs aimed at strengthening Europe's high-technology sector, such as the EUREKA program. In Japan, similar initiatives have been undertaken.

U.S. efforts have been different, chiefly because our business tradition, with its maximum possible reliance on private enterprise and competition, is different. Given these differences, endeavoring to emulate the Japanese or European approach in radio communications or other sectors would be difficult and, in our judgment, undesirable. Rather than seeking to mimic the policies and programs of our trade rivals, what is needed is more policies which help American business and industry capitalize on their strengths.

Questions Submitted by Congressman Rogers

Status of Authorization

Question: What is the status of your authorizing legislation for FY 1991?

Answer: FCC authorization legislation for FY 1990 and FY 1991 passed the House on October 30, 1989. The House levels are: FY 1990, $109,831,000 and FY 1991, $121,478,000. The authorization legislation has not yet passed the full Senate. However, the Senate Commerce Committee on October 5, 1989 approved $109,831,000 for FY 1990, and $119,831,000 for FY 1991.

Staffing Increases

Question: You are requesting an additional 28 FTEs in FY 1991. Please summarize the increases by activity or function.

Answer: The 28 FTEs have been requested to meet the most urgent demands placed on the Commission. The Commission has requested seven FTEs to perform authorization of service activities such as FM processing, private land mobile, and frequency assignment coordination. Thirteen FTEs have been requested to support various Commission enforcement activities including broadcast equal employment opportunity standards, formal complaints processing, amateur radio compliance, rulemaking in land mobile microware services, and field enforcement and investigations. Six FTEs have been requested to support rulemaking activities associated with the introduction of new services, specifically High Definition Television (HDTV). Finally, two FTEs have been requested to ungrade support of the National Emergency Broadcast System (EBS).

Question: Please provide the FCC's FTE level for each year beginning with 1980.

Answer: The FTE levels for the Federal Communications Commission have steadily declined between 1980 and 1990 as shown below. The Commission is requesting minimal increases in FY 1991.

Fiscal Year	Year-End FTE	Fiscal Year	Year-End FTE
1980	2,225	1986	1,840
1981	2,130	1987	1,835
1982	1,981	1988	1,846
1983	1,895	1989	1,785
1984	1,961	1990	1,750 (budgeted)
1985	1,956	1991	1,778 (requested)

Fees

Question: What is the status of your fee collection program? Are you not expected to expand it in 1990?

Answer: The Commission is currently in the final process of implementing a new fee collection program to meet the expanded requirements of PL 101-239, which established several new fees and increased the amount of most existing fees. The new fees will become effective on May 21, 1990. Under the current fee collection program, which was established on April 1, 1987, the Commission has collected $117,125,183 through February 28, 1990.

Question: The FCC began a fee collection program in 1987, and the 1989 budget reconciliation act requires you to expand it in 1990. What is the status of this effort?

Answer: See response to preceding question.

Question: What are the estimated costs in FY 90 to implement a revised fee program? Do you have adequate funding to do so and carry out other activities as needed?

Answer: We estimate that an additional 11 workyears and $1,258,000 in compensation and other costs will be required in FY 1990, over and above resources currently being devoted to fee collection, to implement and operate the expanded fee collection program for the remainder of the fiscal year. In FY 1991, estimated cost to administer the program for a full fiscal year is $1.9 million. There was no provision in the legislation that established the expanded fee collection program for reimbursing the Commission for these costs. The Commission has reallocated personnel and funding from other less critical activities to the collection program. This has resulted, in part, in a continuation of our "one-for-two" hiring freeze and in certain delays in other programs.

Question: What are the costs associated with expansion, and do you have adequate resources in the current fiscal year? Explain the impact, if any.

Answer: See response to preceding question.

Question: Does the pending FCC authorization legislation address the fee collection program?

Answer: Yes. The Senate version of the Commission's pending FY 1990 and FY 1991 authorization bill would allow the Commission to retain 2% of all fees collected. The House version would allow the Commission to retain 4% of all fees collected. The amounts that would be retained in either version of the bill fall short of our total resource requirement to collect fees. For example, in FY 1990 the Commission could retain approximately $518,000 at the Senate level (2%) and $1,036,000 at the House level (4%). As indicated in the answer above, we would need an additional $1.2 million to implement and operate the enhanced program. We would have a shortage of approximately $700,000 at the Senate level and approximately $200,000 at the House level. In FY 1991, to administer this program for a full fiscal year, we would need about $1.9 million. The Senate level would allow retention of $820,000 leaving a shortage of about $1.1 million. The House level would allow retention of approximately $1.6 million leaving a shortage of about $300,000.

Gift Authority

Question: It is my understanding that the FCC was offered supplies and equipment last year that would address certain capital needs. Explain.

Answer: Most notably, Techtronix Corporation, a U.S.-based electronics corporation last year offered to supply several million dollars of equipment (and associated installation services) to re-equip the FCC's Laurel, Maryland Laboratory. The company was concerned that the age and performance of the existing lab equipment was slowing the equipment testing and type acceptance process, and producing faulty results. In addition, the International Communications Association, a leading membership organization representing telecommunications users, offered to supply a number of personal computers (and associated services) to the Commission's Common Carrier Bureau, in order to facilitate tariff reviews. In both instances, equipment age, malfunctions, or the absence of adequate computer support evidently was creating unacceptable delays and costs.

Question: Does FCC have authority to receive such items? Are you aware of any agencies for which such authority exists?

Answer: The FCC does not have statutory authority to accept and use gifts. The U.S. Code Service index, however, contains some six single-spaced pages of statutory references to other agencies' gift authorities. See attachment.

Question: Are there not inherent conflict-of-interest problems with such an arrangement? How could they be avoided?

Answer: As a review of the enclosed index indicates, many agencies with regulatory authorities (e.g., the Departments of Agriculture, Commerce, Education, Health and Human Services, Transportation, State, GSA) and with very large procurement budgets (e.g., the Departments of Air Force, Army, Navy, Defense) currently have gifts authorities. We have no reason to believe that safeguards long relied upon by other Federal agencies would be unworkable in the case of the FCC. A requirement that any gifts be fully and publicly disclosed, coupled with procedural measures developed in consultation with the Comptroller General has been proposed for the FCC.

HDTV

Question: Please describe the resources requested in FY 91 for FCC work in advanced television systems; include dollars and workyears involved.

The Commission's FY 1991 budget request contains a total request of $706,000 for HDTV activities, consisting of $211,000 for personnel workyears to support six positions, $50,000 for technical equipment, $300,000 for contractual program assistance, and $145,000 for a technical microcomputer.

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Five additional engineering positions will be devoted to carrying out studies involving spectrum use and technical factors affecting implementation of HDTV, participating in tests of proponent HDTV systems and reviewing tests carried out by the advisory committee, and developing appropriate technical standards. One additional position will be an attorney to work on policy development in the rulemaking proceeding. The $50,000 requested for technical equipment will permit purchase of specialized test equipment for studies of technical factors, such as effects of varying signal strengths, and the technical characteristics of proposed HDTV systems, all of which must be considered in planning for implementation of HDTV. The $300,000 requested for contract assistance will be used for developing a new TV channel allotment scheme and implementation procedures by applying sophisticated decision-making techniques to optimize results. The channel allotment scheme will take into consideration effects of propagation phenomena, equipment characteristics, and population distribution and other social criteria. The technical microcomputer will be used to support the advanced television technical analyses as well as other technical projects.

Question: As you know, there is significant interest in bringing HDTV to the public. There is concern, however, that proposals to share spectrum or assign available spectrum would jeopardize HDTV development. Former Chairman Patrick testified to his commitment not to take actions on spectrum assignments or allocations which would threaten HDTV development, until completion of testing. Will you continue that policy?

Answer: That policy was recently affirmed in November 1989, when the Commission's Chief Engineer dismissed a petition filed by the Special Industrial Radio Service Association to reallocate unutilized UHF television channel 18 or 19 for land mobile radio use in five agricultural states. Also, our 1985 proposal in General Docket 85-172 to share additional UHF channels with land mobile radio in eight large urban areas remains on hold owing to the potential needs of HDTV. Finally, our TV Table of Allotments in 30 large urban areas is frozen, and we have denied several waiver requests that applicants contended would be very unlikely to affect HDTV. There have been a couple of minor exceptions to this policy where it appeared that there was no chance that the application would affect HDTV; we have been careful not to make assignments in any other circumstance.

Consolidation Increase

Question: You are requesting an increase of $3.4 million for expenses relating to an anticipated consolidation and move in 1992. What necessitates this move?

Answer: The General Services Administration (GSA) believes the consolidation of FCC Headquarters offices is necessary because the useful life of our three commercially leased buildings has been surpassed. It is no longer cost effective to upgrade these buildings to meet new safety codes, satisfy handicapped accessibility standards or to upgrade mechanical/electrical systems to meet FCC operational requirements.

According to GSA, the consolidation will generate a cost savings to the government of $28 million over a period of 20 years. Additional savings are expected because of reduced administrative/overhead expenses, lower energy consumption rates and lower building maintenance cost.

Question: Has a site been selected?

No, we are still working with GSA to identify a site for the FCC.

Question: What is the total amount of resources dedicated to this move in FY 1990 and FY 1991? Please describe how these resources will be used, including the increase requested for FY 1991.

Answer: For FY 1990, we requested $385,000 to provide for the initial engineering, architecture, and telecommunication studies for consolidation and relocation of the Commission to a new facility.

For FY 1991, we are requesting $3.4 million for systems furniture. When GSA surveyed the FCC's space requirements they concluded that we must convert a majority of our office workstations from conventional furniture use to systems furniture configurations to achieve the mandated space reduction of 30,000 square feet.

Question: What will GSA contribute to the move?

Answer: GSA funded contract services for a survey of FCC space requirements and preparation of the Solicitation for Offers (SFO). We estimate the total cost of this effort will be about $10 million. We are not sure at this time which part will be paid by GSA and which costs must be funded by the FCC. Most of the cost will be in FY 1992 when we are scheduled to move.

Request to OMB

Question: What was your request to OMB?

Answer: The FY 1991 OMB request was $121,478,000. OMB then instructed the Commission to add costs for civilian and SES payraises totaling in excess of $3 million but only provided funding for 50% of the payraise. Adding that funding to the OMB passback mark of $116,637,000 brought the ceiling for the FCC's Congressional submission to $117,998,000.

Question: Provide a list of items cut from the request.

Answer: The Commission budget request to OMB for FY 1991 was reduced a total of $6.5 million. Reductions were taken from the following areas:

- $2.5 million - Compensation and Benefits to provide 38 additional FTEs Commission-wide and also reduced the base FTEs to accommodate absorbing 50% of the cost of civilian and SES payraises. Activities affected are: Authorization of Service (5 FTEs); Enforcement (9 FTEs); Public Service (8 FTEs); Management Support (11 FTEs); Rulemaking, International and Computer Support (5 FTEs).

- $2.7 million - Base and programmatic reductions to ADP equipment and support including: Replacement of ADP equipment Commission-wide; replacement equipment for ARMIS system and replacement of 33 obsolete terminals for Common Carrier Activity; Phase II of replacement plan for field computer system and enhancement of electronic mail capabilities for Field Operations Activity; data links between Laurel Laboratory and Headquarters mainframe for Engineering and Technology Activity.

- $0.7 million - New and replacement technical and other equipment and upgrades of vehicles for field enforcement for Field Operations Activity.
- $0.3 million - Repairs to field office facilities including security systems for four offices and installation of antennas and other repairs at the Livermore, Ca. office.
- $0.3 million - Other areas including training, office supplies and relocation of employees.

These reductions will reduce the ability of the Commission to meet its goals of expeditious processing of licenses and complaints and could impede our enforcement and monitoring activities.

Staffing Levels

Question: You are requesting an additional 28 positions for next year; how does that compare with your original request to OMB.

Answer: The Commission requested an additional 66 FTEs for FY 1991 in our original request to OMB.

Question: Your request also shows a total number of 1,778 workyears. Is that sufficient to meet your projected workload? Explain.

Answer: This level of staffing will only allow us to meet the most urgent demands. It is becoming increasingly difficult to keep abreast and be responsive to the enormous changes taking place in telecommunications technology and services. All indicators point to an increase in the pace of change and in the demand for new services. Therefore, we may not be able to take the steps needed to ensure that the United States has a telecommunications infrastructure second to none. Delays may occur in introducing advanced TV, mobile satellite services, broadband integrated networks, and expanded mobile radio services. Businesses may experience several month delays in obtaining land mobile licenses. Licensing of other services including cellular radio will be slowed. We will only be able to respond to about 60% of the interference complaints received. It will take us more than six months to respond to some common carrier complaints from the public. Routine inspection of broadcast and cable television systems will be curtailed and auditing of major carriers will be very limited. We estimate that we need an additional 266 FTE's to provide service that meets our standards to the public and fulfill all of our regulatory responsibilities.

Question: Do any serious gaps exist between current and requested resources and expected demands?

Answer: See response to preceding question.

MONDAY, MARCH 12, 1990.

U.S. INTERNATIONAL TRADE COMMISSION

WITNESSES

ANNE BRUNSDALE, CHAIRMAN
RONALD CASS, VICE CHAIRMAN
DAVID B. ROHR, COMMISSIONER
PHILIP KATZ, DIRECTOR, FINANCE AND BUDGET

Mr. SMITH. The next item we will consider this afternoon is the fiscal year 1991 budget request for the International Trade Commission. The request for 1991 is $42,430,000, about $4,000,000 over the fiscal year 1990 enacted level.

We will insert the budget justifications submitted in support of this request into the record at this point.

[The justifications follow:]

UNITED STATES INTERNATIONAL TRADE COMMISSION

BUDGET JUSTIFICATION

FISCAL YEAR 1991

General Statement

The United States International Trade Commission's budget request for fiscal year (FY) 1991 is for $42,430,000, a net increase of $3,953,000 over the FY 1990 appropriation less the Gramm-Rudman-Hollings sequestration. Requested increases are limited to nondiscretionary requirements to provide necessary support services and to enable the Commission to have sufficient resources to accomplish its mission. The number of authorized permanent positions will remain at the present level of 502. While the demands are not yet fully clear, the Omnibus Trade and Competitiveness Act of 1988 and the United States-Canada Free-Trade Agreement have resulted in changes to the Commission's activities, including extensive rulemaking requirements in both section 337 and title VII, and new and increased litigation requirements.

The International Trade Commission is an independent, quasi-judicial agency that performs a unique role within the Federal government. The Commission's major responsibilities include: (1) conducting trade-related investigations under the Tariff Act of 1930, the Agricultural Adjustment Act, the Trade Act of 1974, the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, and the Omnibus Trade and Competitiveness Act of 1988; (2) providing the Congress and the President with independent, expert advice to assist in the development and implementation of U.S. international trade policy; (3) responding to requests from the Congress and the President on various matters affecting international trade; (4) maintaining the Harmonized Commodity Description and Coding System of internationally accepted product nomenclature; (5) providing technical assistance to eligible small businesses seeking remedies and benefits under the trade laws; and (6) performing other specific statutory responsibilities ranging from research and analysis to quasi-judicial functions on trade-related matters. It is important that the Commission maintain the degree of expertise and readiness that will enable it to carry out these responsibilities.

The Commission does not control the volume and timing of the bulk of its work-load, and must complete its work within statutory deadlines. If external demands vary materially from levels planned in the previous budget cycle, resources can be shifted so that statutory responsibilities are carried out most effectively. Thus, as in past years, the Commission developed its expenditure plan for the current fiscal year at the same time that it formulated its budget request for the ensuing fiscal year.

Responsible management of the Commission's resources and the use of current information system technology enables the Commission to handle its investigative caseload and, at the same time, meet other responsibilities. These other responsibilities include the gathering, using, disseminating, and protecting of information required by the Commission or requested by the President, the Congress, the Courts, and other Federal agencies. During FY 1989 the Commission completed the installation of a state-of-the art office automation system begun in FY 1986 of personal computers and local area networks to upgrade its information systems capabilities. To ensure that the Commission maintains an effective information systems architecture, it must stay informed of the opportunities for increased efficiencies presented by rapid product development in the office automation field. The Commission is currently reviewing new technologies for mass data storage and retrieval and for improved electronic photocomposition.

In addition, as part of an on-going effort to improve the Commission's performance, a number of management initiatives were recently completed. First, responding to new legislation the Commission established Offices of Inspector General and Trade Remedy Assistance. The positions required to establish these new offices have been absorbed within the currently authorized staff level. Second, the Commission established an Office of Information Resources Management reporting to the Director of Administration. Finally, a Library Services unit reporting directly to the Director of Administration was established. By placing the Commission's National Library for International Trade in the Administration directorate, service can be improved to both Commission staff and the public.

Statutory Investigations

The Commission's investigative caseload rose from FY 1983 through FY 1985 when the Commission initiated 239 new cases. Thereafter, the Commission caseload declined to a low of 92 new cases in FY 1988. In FY 1989, the caseload rose slightly to 119 new cases, and we expect it to remain in that area in FY 1990 and FY 1991. While the caseload has declined overall since 1985, cases have tended to be more complex. For example, the Commission recently completed particularly complicated investigations under Title VII on bearings, on microdisks, and on industrial belts -- all of which could have far-reaching industry-wide importance. In addition, changes in trade legislation included in the Omnibus Trade and Competitiveness Act of 1988, such as the new provisional relief procedures, are having an impact on the Commission's workload.

Because of the importance to policy makers of having expert, independent analysis of international trade issues, section 332 studies are one of the Commission's most important and demanding tasks. With the U.S. increasingly competing in global markets, Commission analysts must study global competitive conditions in order to assess properly what is happening to U.S. international trade. During FY 1989 the Commission conducted section 332 studies covering not only large segments of U.S. industry, but also producers throughout the world. These studies covered, among other things, agricultural products, steel products, textiles, autos, and chemicals -- all of which are significant in international trade.

During FY 1989 the Commission completed 23 section 332 investigations for Congress and the President. Among those requested by Congress were: Report on the Pros and Cons of Entering into Negotiations on Free-Trade Area Agreements with Taiwan, the Republic of Korea, and ASEAN, or the Pacific Rim Region in General; The

Economic Effects of Significant U.S. Import Restraints (Phase I--Manufacturing); The Economic Effects of Greater Economic Integration within the European Community on the United States (Phase I); and The Effects of the Steel Voluntary Restraint Agreements on U.S. Steel Consuming Industries. Recent studies completed for the President include: Service Sector Profiles and Barriers to Trade in Services; Agricultural Tropical Products--Literature Search regarding Trade Distortions and Effect of Trade Liberalization, and Calculation of Tariff Equivalents; Foreign Investment Barriers or Other Restrictions that Prevent Foreign Capital from Claiming the Benefits of Foreign Government Programs; Changes in EC Government Procurement in Excluded Sectors and the Impact on U.S. Industries; and Probable Economic Effect on U.S. Industries and Consumers of Modification of U.S. Tariffs under the Uruguay Round.

In addition, during FY 1990 and FY 1991 the Commission will be actively involved in a request from the Senate Finance Committee and the House Ways and Means Committee for continuing analysis of the effects of greater integration of the European Community market by 1992.

Trade issues are increasing in number and complexity. New and expanded areas of interest to the Administration and the Congress include: (1) non-tariff barriers such as licensing, standards, and government procurement regulations; (2) barriers to trade in such services as insurance, banking, construction, consulting, telecommunications, data processing, transportation, tourism, and equipment leasing and rentals; (3) barriers to foreign investment; (4) technology transfer; (5) counter-trade; (6) unfair trade practices such as counterfeiting; and (7) the developments in new or rapidly changing industries such as biotechnology and telecommunications. The Commission will continue to expend considerable resources to ensure that it is capable of addressing these issues promptly and effectively as the demand arises.

Information and Assistance

In its report on the Trade Act of 1974, the Senate Committee on Finance emphasized that providing assistance to the Congress and other U.S. trade policy makers is a primary Commission responsibility under the Tariff Act of 1930. This work arises as a consequence of the Commission's unique position as a repository of technical information and professional skills in international trade matters. Among the ways the Commission has met this mandate is through its "trade monitoring" program. This program includes, (1) periodic reports that analyze significant trade shifts in commodities and (2) the tracking of and reporting on major bilateral and multilateral trade policy developments. The Commission also provides detailed technical assistance to the President, Congress, and agencies administering the trade agreements program.

Harmonized System and Other Nomenclature Activities

In 1989, the Commission was heavily engaged in the conversion from the Tariff Schedules of the U.S. to the Harmonized Tariff System (HTS). This involved making necessary revisions and maintaining necessary documentation for U.S. adoption of the system, supporting the U.S. position in related GATT negotiations, and updating the explanatory materials. Moreover, as one of three government agencies responsible for formulating official U.S. positions on issues addressed by the Harmonized System Committee (HSC), as well as for representing the United States in the HSC, the importance of the Commission's role in the U.S. delegation to the HSC has increased. This year the Commission is expected to participate in the HSC's recently established Review Subcommittee, which will meet twice a year to consider revisions to the legal notes and nomenclature of the international HS.

The Omnibus Trade and Competitiveness Act of 1988 replaced the Commission's responsibility for maintaining and publishing the Tariff Schedules of the United States Annotated with the responsibility for publishing the HTS. The Commission also maintains several basic components of the Federal government's trade information data base. In this connection, the Commission is taking a leading role in using current computer technology to make up-to-date trade data available, not only to Commission staff engaged in trade monitoring, but also to its investigators and researchers and to an increasing number of U.S. trade policy officials.

Finally, it should be noted that the Omnibus Trade and Competitiveness Act of 1988 provides for new Commission activities with respect to the Harmonized System, including: (a) recommending changes to the HTS resulting from sustained Customs protests; (b) advising the President on how to modify the HTS to implement internationally agreed upon changes, promote uniformity, ensure modernization, alleviate administrative burdens, and make technical corrections; and (c) assessing the operation of the U.S. Harmonized System after its first year.

Trade Remedy Assistance Office

The Omnibus Trade and Competitiveness Act of 1988 expanded the scope of the Commission's trade remedy assistance program by mandating the establishment of a separate Trade Remedy Assistance Office within the Commission to provide general information to the public on trade remedies available, and technical assistance in petition application procedures. The number of requests for information and technical assistance by small businesses increased in FY 1989 and is expected to continue to increase in FY 1990 and FY 1991, particularly in view of the requirement in the 1988 Act that the Small Business Administration facilitate access to the Trade Remedy Assistance Office.

Office of Inspector General

The Inspector General Act Amendments of 1988 required the Commission to establish an independent Office of Inspector General. This was done effective February 2, 1989, and the office actually began operations on April 17, 1989, when the Inspector General position was filled. To fulfill the law's mandate for independence and neutrality, the Inspector General reports directly to the Chairman and has no program responsibilities (see Section 111 of the Inspector General Act Amendments of 1988). The Commission reported on October 30, 1989, that it was in full compliance with the requirements to implement an inspector general function. During FY 1990 and FY 1991 audits are planned in both financial and program areas.

Federal Managers' Financial Integrity Act

As required by the Federal Managers' Financial Integrity Act (FMFIA), the Commission's managers conducted an evaluation of the system of internal accounting and administrative control in effect during FY 1989, to ensure that adequate controls govern both program and administrative activities. The Commission completed its planned vulnerability assessments and internal control reviews, and on December 27, 1989, the Chairman advised the President and Congress that, as of September 30, 1989, there were no material weaknesses or nonconformances in the Commission's internal control program. The Commission's Inspector General concurred with this conclusion. The Commission maintains an aggressive internal control program which will continue to provide the agency with an important process for improving accountability and control and maintaining high standards.

INTERNATIONAL TRADE COMMISSION
Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $42,430,000.

Summary of Requirements

(in thousands of dollars)

Appropriation for FY 1990			$ 39,000
Less sequestration			523
Total funds available			38,477
Adjustments to base and built-in changes:			
Partial cost of January 1991 pay increase (including a 50-percent absorption)	$ 499		
Within grade increases and reclassifications	596		
Increase in retirement contribution due to the Federal Employees Retirement System Act of 1986	223		
Additional compensable day	93		
Adjustment to provide for lower lapse of staff positions	837		
Subtotal, increased staffing costs		$ 2,248	
Estimated increases in travel and transportation ($140), space rental ($300), communications and utilities ($160), printing and reproduction ($80), other services ($760), supplies and material ($180) and equipment ($85)		1,705	
Total, adjustments to base and built-in changes			3,953
Appropriation requested for FY 1991			$ 42,430

Total requirement program
(Dollar amounts in .sands)

Activity	FY 1989 actual		FY 1990 appropriation		FY 1991 base		FY 1991 estimate		Increase (+) decrease (-) from FY 1991 base	
	Work-Years	Amount	Work-Years	Amount	Work-Years	Amount	Work-Years	Amount	Work-Years	Amount
1. Public investigations and research studies:										
A. Import injury (Trade Act (TA) of 1974)	-	-	5	407	5	440	5	440	-	-
B. Interference wih agricultural programs (AAA)	2	159	-	-	-	-	-	-	-	-
C. Antidumping and countervailing duty (title VII of the Tariff Act of 1930 and the Trade Agreements Act of 1979)	57	4,226	61	4,795	61	5,241	61	5,241	-	-
D. Unfair import practices (section 337, Tariff Act of 1930, and section 603, TA of 1974)	41	3,189	47	3,878	47	4,205	47	4,205	-	-
E. Probable economic effect of concessions or preferential duty-free treatment (TA of 1974)	33	2,270	13	1,018	13	1,124	13	1,124	-	-
F. Under Section 332 of the Tariff Act of 1930	96	6,929	95	7,330	94	7,940	94	7,940	-	-
Total public investigations and research studies	229	16,773	221	17,428	220	18,950	220	18,950	-	-
2. Technical information and assistance:										
A. Provided to the Legislative Branch	12	869	10	777	10	847	10	847	-	-
B. Provided to the Executive Branch and public	31	2,007	29	2,005	29	2,184	29	2,184	-	-
C. Relating to trade agreements activities	12	909	18	1,431	18	1,571	18	1,571	-	-
Total technical information and assistance	55	3,785	57	4,213	57	4,602	57	4,602	-	-
3. Recurring reports and services:										
A. Trade monitoring	19	1,346	20	1,529	20	1,680	30	1,680	-	-
B. Synthetic organic chemicals report	7	396	8	475	8	528	8	528	-	-
C. Summaries of trade and tariff information	-	-	4	261	5	352	5	352	-	-
D. Harmonized System and other nomenclature and classification activities	11	898	15	1,304	15	1,429	15	1,429	-	-
E. Other recurring reports and services	18	1,271	16	1,203	16	1,310	16	1,310	-	-
Total recurring reports and services	55	3,911	63	4,772	64	5,299	64	5,299	-	-
4. Assembling and analyzing economic and technical information:										
A. Information resources management	33	2,277	36	2,661	37	3,053	37	3,053	-	-
B. Professional assembly and analysis of information	23	1,549	24	1,713	25	1,934	25	1,934	-	-
Total assembling and analyzing economic and technical information	56	3,826	60	4,374	62	4,987	62	4,987	-	-
5. Administration	64	3,996	55	3,675	57	4,136	57	4,136	-	-
6. Executive Direction	38	3,314	40	3,744	41	4,141	41	4,141	-	-
7. Inspector General	1	133	3	271	3	315	3	315	-	-
Total workyears and obligations	498	$35,738	499	$38,477	504	$42,430	504	$42,430	-	-
Less: Reimbursements	-	-	-	-	-	-	-	-	-	-
Net obligations	498	$35,738	499	$38,477	504	$42,430	504	$42,430	-	-

Summary of inves tions instituted

Type of Investigation	FY 1987 actual	FY 1988 actual	FY 1989 actual	FY 1990 estimate	FY 1991 estimate
Import injury, sections 201 et seq., and 406, TA of 1974	4	2	0	2	2
Interference with agricultural programs, Section 22, Agricultural Adjustment Act	0	0	2	0	0
Antidumping and countervailing duty, title VII Tariff Act of 1930 1/	99	65	78	75	75
Unfair import practices, section 337, Tariff Act of 1930, and section 603, TA of 1974	20	11	16	24	24
Probable economic effect of concessions or preferential duty-free treatment, TA of 1974	2	2	4	2	2
Investigations and research studies, section 332, Tariff Act of 1930	11	12	19	23	22
Total	136	92	119	126	125

1/ The figures shown for title VII investigations are based on assigned case numbers. To simplify voting, a single petition filed under title VII is typically given several case numbers, one for each foreign country covered by the petition and sometimes one for each separate major product line, even though a single investigative team does all the work, a single hearing is held, and a single report is produced. For fiscal years 1987, 1988 and 1989 we have developed statistics on the basis of separate product lines for each petition, and on that basis the actual product line investigations for those years were as follows:

	Product Line Investigations	Total Case Numbers Assigned
Fiscal Year 1987	55	99
Fiscal Year 1988	33	65
Fiscal Year 1989	37	78

Summary of Investigations ed in FY 1988 and FY 1989

	FY 88	FY 89
Import injury (section 203, Trade Act of 1974)		
Shakes and shingles	-	1
Knives	1	-
Total	1	1
Interference with agricultural programs (section 22, Agricultural Adjustment Act):		
Ice cream	-	1
Total	-	1
Antidumping (title VII, Tariff Act of 1930):		
Metals and manufactures thereof	20	21
Chemicals	4	5
Electrical, electronics and parts	12	10
Textiles and products of textiles	1	3
Pharmaceuticals	-	4
Stone	2	-
Rubber, plastics and manufactures	15	8
Vehicles	2	1
Total	56	52
Countervailing duty (title VII, Tariff Act of 1930 and section 104 of the Trade Agreements Act of 1979):		
Metals and manufactures thereof	5	6
Chemicals	-	1
Agricultural, fishery and forest products	-	2
Other products	1	-
Electrical, electronics and parts	3	1
Rubber, plastics and manufactures	3	2
Total	12	12
Unfair import practices (section 337, Tariff Act of 1930, and section 603, Trade Act of 1974):		
Consumer goods	2	2
Tools, equipment and parts	2	1
Recreation and leisure products	1	1
Scientific products	1	1
Electric and electronic products and components	7	3
Medical, pharmaceutical, and chemical products	1	2
Furniture	2	-
Plastic articles	3	1
Other products	3	1
Total	22	12
Investigations and research studies (section 332, Tariff Act of 1930 and sections 131(b) and 503(a) of the Trade Act of 1974):		
Commodities and industries	5	13
Generalized system of preferences	2	6
European Trade		2
Trade negotiations	-	3
Statistics	4	-
Japan Trade	2	-
Foreign Trade Zones	1	-
Intellectual Property	1	-
Duty suspensions	1	-
International commodity code	-	1
Foreign investment barriers	-	1
Services	-	1
Total	16	27
Total investigations completed	107	105

ACTIVITY 1 - PUBLIC INVESTIGATIONS AND RESEARCH STUDIES

PROGRAM ANALYSIS
(Dollar amounts in thousands)

Activity	FY 1989 actual		FY 1990 appropriation		FY 1991 base		FY 1991 estimate		Increase(+)or decrease(-) from FY 1991 base	
	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount
1. Public investigations and research studies:										
A. Import injury	-	-	5	$407	5	$440	5	$440	-	-
B. Interference with agricultural programs	2	$ 159	-	-	-	-	-	-	-	-
C. Antidumping and countervailing duty	57	4,226	61	4,795	61	5,241	61	5,241	-	-
D. Unfair import practices	41	3,189	47	3,878	47	4,205	47	4,205	-	-
E. Probable economic effects of concessions	33	2,270	13	1,018	13	1,124	13	1,124	-	-
F. Under section 332, Tariff Act of 1930	96	6,929	95	7,330	94	7,940	94	7,940	-	-
Total public investigations and research studies	229	$16,773	221	$17,428	220	$18,950	220	$18,950	-	-

Import injury investigations

These investigations are conducted pursuant to sections 201 et seq., the U.S. escape clause law, and section 406 of the Trade Act of 1974. Under section 202, the Commission determines whether domestic industries are eligible for import relief and, if so, recommends appropriate relief action to the President. Under section 204, the Commission reviews import relief actions provided under sections 202-203, monitors industry adjustment efforts, and reports to the President on the probable economic effect of modifying, extending, or terminating the relief that is in effect. Section 406 of the Trade Act of 1974 authorizes investigations concerning market disruption by imports from nonmarket economy countries.

During FY 1989, the Commission instituted no escape-clause or market-disruption investigations; we estimate that two such investigations will be instituted in FY 1990 and two in FY 1991.

For this activity the Commission projects the use of five workyears and $440,000 in FY 1991, compared to five workyears and $407,000 in FY 1990.

Investigations of interference with agricultural programs

Under section 22 of the Agricultural Adjustment Act, the Commission conducts investigations at the request of the President to advise the President as to whether imports are rendering or tending to render ineffective, or materially interfering with, certain programs of the Department of Agriculture. After receiving a Commission report, the President may impose fees or quantitative restrictions on the subject imports. The President may also request the Commission to conduct additional investigations regarding modification or termination of existing measures.

The Commission instituted two section 22 investigations during FY 1989, one on ice cream and the other on cotton comber waste. We project no requests for such investigations in the next two fiscal years and therefore plan no work-years for this activity. But we will maintain a professional capability, and keep abreast of economic and international trade developments, in this area through other related Commission activities.

Antidumping and countervailing duty investigations

Under title VII (A and B) of the Tariff Act of 1930, as amended by the Trade Agreement Act of 1979 and the Omnibus Trade and Competitiveness Act of 1988, the Department of Commerce is required to determine whether imported merchandise is being sold in the United States at less than fair value (antidumping cases) or whether a subsidy is being provided with respect to the manufacture, production, or exportation of merchandise imported into the United States (countervailing duty cases); and the Commission is required to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise that is the subject of an investigation. The Commission makes a preliminary determination under a "reasonable indication" standard within 45 days of the filing of the petition. If that is affirmative, Commerce must continue its investigation and make preliminary and final determinations regarding the alleged unfair trade practice. If Commerce's final determination is affirmative, the Commission then has 45 or 75 days from notification to make a final injury determination, (the number of days depends on whether Commerce's preliminary determination was affirmative or negative). In addition, certain types of "review" investigations are provided for in title VII (C).

If an appeal is filed contesting the Commission's final determination or its negative preliminary determination, the Office of General Counsel defends the Commission's determination. If a dispute is filed under the General Agreement on Tariffs and Trade (GATT) or the U.S.-Canada Free Trade Agreement concerning a countervailing duty or antidumping determination, the Office of General Counsel provides technical support to the United States Trade Representative (USTR) in formulating and presenting the U.S. response.

In FY 1989, the number of new antidumping and countervailing duty cases increased to 78 from 65 in FY 1988. We estimate that this number will drop slightly to 75 in FY 1990 and remain at that level in FY 1991.

For FY 1991 the Commission projects the use of 61 workyears and $5,241,000 for this activity, compared to 61 workyears and $4,795,000 in FY 1990.

Unfair import practice investigations

Section 337 of the Tariff Act of 1930, as amended, provides for investigations by the Commission of alleged unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale. Most of these investigations involve allegations relating to infringement of United States patents, trademarks, and copyrights.

The Commission must complete investigations under this statute within one year (18 months in more complicated cases), and the investigations are required to be conducted in conformity with the provisions of the Administrative Procedure Act. Section 337 investigations are generally instituted after the filing of a complaint by a private party. If the Commission finds a violation, it may issue an exclusion order barring the imported product from entry into the United States and/or direct that a respondent cease and desist from engaging in the unfair practices. The violation of a cease-and-desist order is punishable by civil penalties of up to $100,000 per day or twice the domestic value of the articles entered or sold. Commission orders may be disapproved by the President for policy reasons within 60 days of issuance. If a complaint includes a request for temporary relief, the Commission must now render a decision on temporary relief within 90 days (or 150 days for more complicated cases) and may require complainants to post bonds in order to obtain temporary relief. Commission determinations on temporary relief and on the merits after a full investigation may be appealed to the United States Court of Appeals for the Federal Circuit.

Section 337 investigations usually involve complex factual and legal determinations. Additional resources are required in connection with appeals, because the Commission is represented by its own attorneys in defending Commission decisions before the United States Court of Appeals for the Federal Circuit. In addition, the Omnibus Trade and Competitiveness Act of 1988 amended section 337 in several significant respects, including removing the injury requirement and expanding the definition of domestic industry in investigations involving the alleged infringement of statutorily protected intellectual property rights. As a result, more firms qualify for protection under the statute. In view of the amendments, the number of section 337 investigations increased in FY 1989 and should increase again in FY 1990 and FY 1991.

The Commission's budget request (1) provides for continued demand for investigations under section 337 of the Tariff Act of 1930 and preliminary investigations under section 603 of the Trade Act 1974 and (2) takes account of litigation, enforcement, procedural rulemaking, and other activities relating to these investigations.

During FY 1989 the Commission had 34 active unfair import practice cases underway (including advisory opinions, remands, and enforcement proceedings), including 16 new cases. In FY 1990, it is expected that work-load will increase to 40 active 337 investigations including 24 new cases. In FY 1991, it is expected that the work-load will remain at a similar level, with approximately 42 active section 337 investigations including 24 new cases.

In FY 1991 the Commission projects the use of 47 workyears and $4,205,000 for this activity, compared to 47 workyears and $3,878,000 in FY 1990.

Investigations of probable economic effect of concessions or preferential duty-free treatment

The Trade Act of 1974 provides that, at the request of the President, the Commission must conduct investigations in connection with the Generalized System of Preferences (GSP) for developing countries with regard to articles which may be considered (1) in negotiations for modifications of duty or (2) for designation as eligible articles. These investigations apprise government trade officials of the probable economic effect of the modification of U.S. tariffs. During FY 1989 the Commission's work-load in this area consisted of five separate investigations, two of them related to the probable economic effect of Uruguay Round MTN concessions on U.S. industries and consumers and three involved modifications in the U.S. Generalized System of Preferences (GSP). The MTN investigations were conducted in support of the U.S. negotiators at the Uruguay MTN round now being conducted under the auspices of the General Agreement on Tariffs and Trade (GATT).

The formal request from the United States Trade Representative for advice on the probable economic effect of U.S. tariff reductions that might be negotiated in the Uruguay round was the single largest and most comprehensive analysis undertaken by the Commission in recent years. Industry analysts prepared trade "digests" covering all tariff-line items and analyzing the economic impact of all proposed changes.

In FY 1990, the Commission expects to conduct three or four probable economic effect investigations related to the U.S. GSP. These studies include (1) the annual GSP review, (2) a special review of all products previously eliminated from GSP eligibility due to competitive-need limits, (3) a special GSP request related to requests from Columbia, Bolivia, Peru, and Ecuador for the addition of products to the GSP, and (4) potentially, investigations of the probable economic effect of the addition to the GSP of products from select Eastern Block countries.

In FY 1991, the Commission will use 13 workyears and $1,124,000 for this activity, compared to 13 workyears and $1,018,000 in FY 1990.

Investigations and research studies under section 332 of the Tariff Act of 1930

Section 332 of the Tariff Act of 1930 directs the Commission to make such investigations and reports as may be requested by the President, the House Committee on Ways and Means, the Senate Committee on Finance, or either branch of Congress. The Commission is also authorized to self-initiate investigations and studies of trade matters after consultations with congressional committees and the Executive Branch.

Section 332 investigations are one of the Commission's most important and demanding tasks. Not only is it important for policy makers to have expert, independent analysis of international trade issues, but changes in international trading patterns and practices make careful analysis of trade issues a high priority at this time. To list a few of these changes: vigorous new competitors have entered world export markets; there are disagreements among nations on how and to what extent governments should intervene in their economies in ways that affect their trading partners; the spread of technology has accelerated the rate at which comparative advantages shift among industries and countries; and efforts to reach international agreements on services, intellectual property, and other non-traditional trade areas have broadened the scope of multilateral trade negotiations.

During FY 1989, the Commission instituted 19 new section 332 investigations and had a total of 36 active section 332 investigations during the year. A number of these, including both one-time, factfinding studies and continuing industry surveys, explored areas where there is relatively little available information or investigative precedent. During FY 1990 the number of active 332 investigations is expected to remain at the same high level of 1989 with 23 new cases projected. A similar workload is expected in FY 1991.

In addition, during this period the Commission will act on a request from the Senate Finance Committee and the House Ways and Means Committee for continuing analysis of the effects of greater integration of the EC market by 1992. The first phase of this study, a comprehensive report covering all aspects of EC integration efforts through 1988, was completed in FY 1989. Future Commission work in this area will consist of semi-annual reports to the Congress analyzing the effects of new EC 1992 directive proposals, amendments to previously proposed directives, decisions by the European Court of Justice affecting EC 1992 market integration, decisions by EC standards bodies pursuant to EC 1992 standards directives, and any other developments related to the EC 1992 effort. The first semi-annual report will be published in March 1990.

Congressionally requested studies completed during FY 1989 include: The Western U.S. Steel Market: Analysis of Market Conditions and Assessment of the Economic Effects of the Voluntary Restraint Agreements on Steel-Producing and Steel-Consuming Industries; Report on the Pros and Cons of Entering into Negotiations on Free-Trade Area Agreements with Taiwan, the Republic of Korea, and ASEAN, or the Pacific Rim Region in General; Ethyl Alcohol and Mixtures Thereof: Assessment Regarding the Indigenous Percentage Requirements for Imports in Sec. 423 of the Tax Reform Act of 1986; The Economic Effects of Significant U.S. Import Restraints (Phase I--Manufacturing); Competitive Conditions in the U.S. and World Markets for Fresh Cut Roses; The Economic Effects of Greater Economic Integration within the European Community on the United States (Phase I); The Effects of the Steel Voluntary Restraint Agreements on U.S. Steel Consuming Industries; and Importation of Certain Drug Paraphernalia into the United States. The studies on ethyl alcohol and roses were required by the Omnibus Trade and Competitiveness Act of 1988.

Studies currently underway at the request of the Congress include: The Economic Effects of Significant U.S. Import Restraints (Phase II--Agriculture); U.S. Imports of Lamb Meat; The Effects of Greater Economic Integration within the European Community on the United States (semi-annual monitoring reports); Certain Final Judicial Decisions Relating to Tariff Treatment; Investigation with Respect to the Operation of the Harmonized System Subtitle of the Omnibus Trade and Competitiveness Act of 1988; Survey of Views on the Impact of Granting Most Favored Nation Status to the Soviet Union; The U.S. Durum Wheat Industry; Trade and Investment Liberalization Measures by Mexico and Prospects for the Future; and Japan's Distribution System and Options for Improving U.S. Access. The emphasis currently being placed on international trade matters by Congress suggests that demands for such Commission studies will continue.

Recent studies completed for the President include: Competitive Conditions in the U.S. Market for Asparagus, Broccoli, and Cauliflower; Men's and Boys' Woven Manmade-Fiber Shirts from the People's Republic of China; Service Sector Profiles and Barriers to Trade in Services; Agricultural Tropical Products--Literature Search Regarding Trade Distortions and Effect of Trade Liberalization, and Calculation of Tariff Equivalents; United States/Israel Free-Trade Agreement--Probable Effects on U.S. Industry and Consumers of Certain Remaining U.S. and Israel Tariff Reductions; Probable Economic Effect of Providing Duty-Free Treatment for Watches Under the Generalized System of Preferences; Foreign Investment Barriers or Other Restrictions that Prevent Foreign Capital from Claiming the Benefits of Foreign Government Programs; Changes in EC Government Procurement in Excluded Sectors and the Impact of U.S. Industries; Conditions of Competition Between U.S. and Mexican Lime in the United States Market; Certain Unmanufactured Cigarette Leaf Tobacco: Probable Economic Effect of Removal from Eligibility for Duty-Free Treatment Under the Generalized System of Preferences; Advice Concerning Probable Effects of Modification of Rules of Origin under the U.S.-Canada Free Trade Agreement for Certain Animal Fat and Vegetable Oil Products; Tropical Products: Probable Economic Effects on U.S. Industries and Consumers of Elimination of U.S. Tariffs; and Probable Economic Effect on U.S. Industries and Consumers of Modification of U.S. Tariffs Under the Uruguay Round.

Studies currently underway at the request of the President include: Competitive Position of the U.S. Gear Industry in U.S. and Global Markets; United States--Canada Free Trade Agreement: Probable Economic Effect on U.S. Industries and Consumers of Accelerated Elimination of U.S. Tariffs on Certain Articles from Canada; President's List of Articles Which May be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences; and Estimated Tariff Equivalents of U.S. Quotas on Agricultural Imports and Analysis of Competitive Conditions in U.S. and Foreign Markets for Sugar, Meat, Peanuts, Cotton, and Dairy Products.

In addition, the Omnibus Trade and Competitiveness Act of 1988 opened the possibility of new types of 332 investigations including the monitoring of "downstream" product dumping and additional monitoring related to escape clause actions. The extent to which these provisions will generate additional cases is unknown at this time.

In FY 1991, the Commission will use 94 workyears and $7,940,000 for this activity, compared to 95 workyears and $7,330,000 in FY 1990.

ACTIVITY 2 - TECHNICAL INFORMATION AND ASSISTANCE

PROGRAM ANALYSIS

(Dollar amounts in thousands)

Activity	FY 1989 actual		FY 1990 appropriation		FY 1991 base		FY 1991 estimate		Increase(+)or decrease(-) from FY 1991 base	
	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount
2. Technical information and assistance:										
A. Provided to the Legislative Branch----	12	$869	10	$777	10	$847	10	$847	-	-
B. Provided to the Executive Branch and the public------------	31	2,007	29	2,005	29	2,184	29	2,184	-	-
C. Related to trade agreements activities-	12	909	18	1,431	18	1,571	18	1,571	-	-
Total technical information and assistance----------	55	$3,785	57	$4,213	57	$4,602	57	$4,602	-	-

The task of furnishing technical information and assistance to the President, the Congress, other agencies, and private industries, groups, and individuals is an important element of the Commission's responsibilities. This work arises as a consequence of the Commission's unique position as a repository of technical information and professional skills in international trade matters such as tariffs, nomenclature, and the effect of imports on domestic industries.

Providing technical information and assistance to the Legislative Branch

The Commission provides information and assistance in response to requests by the Congress. Committees regularly request the Commission to analyze, and to assist in their drafting of, proposed legislation and to provide trade or other technical information in connection with hearings or staff reports. Commission staff attend executive and public sessions of the committees. (Formal investigations requested by congressional committees are not included in this activity, but are discussed under section 332 investigations (activity 1F)).

Providing this assistance is one of the Commission's primary responsibilities under the Tariff Act of 1930. However, because the Commission's base of expertise is maintained through work on its other activities, only a small percentage of all Commission resources is applied directly to this key function.

During 1989, the Commission prepared reports to the Congress on roughly 300 miscellaneous tariff bills, and Commission attorneys provided legal assistance to the staffs of the House Committee on Ways and Means and the Senate Committee on Finance in their consideration of this legislation.

Over the year, the Commission supplied information to Congress in such areas as agriculture, "production sharing" trade (U.S. articles processed or assembled abroad and returned for sale or processing), automobiles, petroleum, steel, telecommunications, U.S.-Japan trade issues, the EC and Soviet Union, the Multifiber Arrangement, and the U.S. Generalized System of Preferences. We responded to approximately 50 letters and numerous telephone calls from members of Congress and their staffs regarding technical information and expertise on specific trade or tariff matters. The Commission also testified before the Subcommittee on Trade of the House Ways and Means Committee on ethanol imports from the Caribbean Basin countries, the subject of a section 332 investigation completed during the year, and on the economic impact of foreign trade zones, the subject of an earlier Commission study.

We expect the congressional demand for Commission assistance and advice on the impact of ongoing trade negotiations and other trade-related activities to continue. In FY 1991 the Commission projects the use of 10 workyears and $847,000 for this activity, compared to 10 workyears and $777,000 in FY 1990.

Providing technical information and assistance to the Executive Branch and the public

The Commission is required to assist other Federal agencies in matters related to its areas of expertise. The Commission provides technical services on tariff and trade matters to the U.S. Trade Representative's office and participates at the technical level in the work of the interagency Trade Policy Staff Committee. The

Commission also works closely with the Bureau of the Census and the U.S. Customs Service, and furnishes information on certain strategic and critical materials to agencies concerned with problems of national defense. The Commission has often supplied information to the Departments of Commerce, Labor, and State regarding proposed legislation on various commodities. Further, assistance is provided almost daily to other agencies on all phases of commodity production, trade relations with other countries, trade laws, product nomenclature and classification.

The Commission expects continued demand for its technical information and assistance, particularly as a result of the current GATT-sponsored Uruguay Round of trade negotiations and adoption of the Harmonized System. Requests for product specific information are anticipated in such areas as trade in international services, bilateral trade relations, foreign investment, trade in high-technology products, agricultural commodities, chemicals, automobiles, and textiles.

Pursuant to the Omnibus Trade and Competitiveness Act of 1988, the Commission established a Trade Remedy Assistance Office (TRAO) to provide: (1) general information to the public on remedies available under the trade laws and (2) technical assistance to eligible small businesses concerning petition and application procedures under trade remedy laws administered by the Commission. The TRAO provides technical assistance (including informal legal advice) during administrative review or appeals to eligible small businesses seeking remedies and benefits under certain trade laws administered by the Commission and other Federal agencies.

The number of informational inquiries and requests for technical assistance by small businesses increased in FY 1989,during which TRAO received approximately 320 inquiries from small businesses, Congress, government agencies, law firms, trade associations, the press, and academia, compared to 230 inquiries during FY 1988. Additional increases are expected in 1990, particularly in view of the requirement in the Act that the Small Business Administration facilitate access to the Trade Remedy Assistance Office.

In FY 1991 the Commission projects the use of 29 workyears and $2,184,000 for this activity, compared to 29 workyears and $2,005,000 in FY 1990.

Providing technical information and assistance relating to trade agreements

This activity involves supplying detailed technical information for use by the President and those administering the trade agreements program. Commission responsibilities include maintaining a data base including trade and nomenclature information; preparing formal and informal reports and analyses in response to special requests; developing digests of information on articles of commerce; maintaining offer lists for trade negotiations and consolidated schedules of concessions under the General Agreement on Tariffs and Trade (GATT); participating in the drafting of trade agreements; assisting in the drafting of Presidential proclamations modifying the Harmonized Tariff Schedule of the United States (HTS) to implement U.S. trade policy decisions; preparing the final schedules relating to U.S. tariff concessions in the appropriate legal language; and participating in the annual product review and competitive-need determinations with respect to the Generalized System of Preferences (GSP).

During FY 1989, the Commission was active in providing to the office of the U.S. Trade Representative (USTR) technical information and assistance relating to the trade agreements program. Eleven Presidential Proclamations were drafted to carry out the GSP and other trade agreement programs. The first supplemental revision of the United States Harmonized System Schedule XX of the GATT tariff concessions was sent to the GATT Secretariat in January 1989; the revision reflected all the changes to the Harmonized Tariff Schedule of the United States (HTS) that took place in calendar-year 1988. An annual supplemental revision to Schedule XX will be sent to the GATT Secretariat shortly after the end of each calendar year. Considerable staff time was spent responding to inquiries from Commission analysts, Government agencies involved with trade, trade associations, law firms and academics who were forced to focus their attention on the HTS and all the problems involved in converting nomenclature and statistical data from the TSUS format. Significant staff time was also spent on providing assistance to the USTR as that agency began work on accelerating the staged tariff reductions resulting from the United States-Canada Free-Trade Agreement. In FY 1989, the HTS was screened on a line-by-line basis to ensure that all column 1 rates of duty reflected the tariff concessions granted in the Tokyo Round or earlier rounds of multilateral tariff negotiations. In addition, special bilateral concessions and legislative tariff changes occurring in recent years were verified. For FY 1990 and FY 1991, the Commission will concentrate its efforts in the trade agreements program in continuing its support of the Uruguay Round of the MTN, and in supplying the GATT Secretariat with U.S. import data for the GATT Integrated Data Base.

Finally, the staff completed its work on revising the Commission's automated trade data base to meet HTS requirements. Specifications for the HTS trade data base were drawn up, reviewed, and approved by interested parties. In FY 1990, it is expected that increased resources will be necessary to revise and/or write new computer programs to meet requests for information in HTS format to be used during trade negotiations.

In FY 1991 the Commission projects the use of 18 workyears and $1,571,000 for this activity, compared to 18 workyears and $1,431,000 in FY 1990.

ACTIVITY 3 - RECURRING REPORTS AND SERVICES

PROGRAM ANALYSIS

(Dollar amounts in thousands)

Activity	FY 1989 actual		FY 1990 appropriation		FY 1991 base		FY 1991 estimate		Increase(+)or decrease(-) from FY 1991 base	
	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount
3. Recurring reports and services:										
A. Trade monitoring--------	19	$1,346	20	$1,529	20	$1,680	20	$1,680	-	-
B. Synthetic organic chemicals reports-----	7	396	8	475	8	528	8	528	-	-
C. Summaries of trade and tariff information----	-	-	4	261	5	352	5	352	-	-
D. Harmonized System and other nomenclature activities------------	11	898	15	1,304	15	1,429	15	1,429	-	-
E. Other recurring reports and services--	18	1,271	16	1,203	16	1,310	16	1,310	-	-
Total recurring reports and services--------	55	$3,911	63	$4,772	64	$5,299	64	$5,299	-	-

Trade monitoring

The Commission's trade-monitoring program helps to identify and report on key international trade developments. The international trade-monitoring activity also provides support for much of the Commission's other work by keeping commodity and foreign area specialists up-to-date on trade trends and emerging policy issues. The program currently includes: tracking of trade and trade policy developments with key U.S. trading partners such as Canada, the European Community, and Japan; East-West trade monitoring; reporting on the shifts in U.S. imports and exports of specific commodities; and the monitoring of trade in more than 300 individual industries.

Section 163(b) of the Trade Act of 1974 requires the Commission to submit to the Congress an annual report on the operation of the trade agreements program of the United States (OTAP report). This report provides Congress with an independent account of the trade-policy activities of the United States, together with complementary information on trade-related developments in other major U.S. trading partners and the activities of such international trade organizations as the General Agreement on Tariffs and Trade (GATT) and the Organization for Economic Cooperation and Development (OECD). The report also includes detailed data on U.S. trade under the GSP program and the Caribbean Basin Initiative, a review of developments within the GATT and other multilateral organizations, and a summary of actions taken under U.S. trade law. Trade relations with seven major partners--the European Community, Canada, Japan, Mexico, Taiwan, Korea, and Brazil--are covered in detail. More than 2,000 copies of the OTAP report are distributed to U.S. and foreign government officials, academics, libraries, trade associations, and U.S. embassies.

Section 410 of the Trade Act of 1974 directs the Commission to monitor U.S. trade with the non-market economy countries (NMEs), including China and the Soviet Union, and to provide the Congress and the Trade Policy Committee a quarterly report on this trade. Each report provides up-to-date statistics on U.S. trade with 13 NMEs, along with analyses of significant developments in relevant commercial and trade policy. The Commission operates a computer-based import-monitoring system that scans imports of manufactured products from the NMEs and identifies the industries with rapid growth in imports and significant levels of import penetration by NME suppliers. The Commission's report is currently the only regularly released U.S. Government accounting of U.S. trade with the non-market economy countries.

In FY 1989, the Commission issued the fourth of a series of annual reports on the impact of the Caribbean Basin Initiative (CBI) on the United States economy. This report, required by Sec. 215(a) of the Caribbean Basin Economic Recovery Act, ensures that the impact of the CBI program on U.S. industry and consumers and the beneficiary Caribbean countries is carefully monitored.

The Commission's computerized commodity trade monitoring system permits rapid analysis and research on recent trends in U.S. trade. This system consists of three interrelated parts: a computer-based trade-monitoring system; specially designed trade tables for selected commodity groupings; and data profiles, which provide selected economic data for each commodity grouping. The computerized trade-monitoring program automatically detects unusual trade movements. The trade tables, which support the trade-monitoring program, consist of computer-generated import and export data for over 300 major industry groups. The data profiles include data on production, shipments, employment, capacity, and trade for the same industry groups. In addition, this system is a valuable research tool providing trade data not readily or routinely available in the past. The system was also designed to have the flexibility to meet new trade-monitoring requirements as they develop. During FY 1990 the Commission will continue conversion of the monitoring system to the new U.S. Harmonized System nomenclature.

The Commission is continuing the quarterly report series entitled U.S. Trade Shifts in Selected Commodity Areas which was initiated in FY 1981. The report is a by-product of the normal trade-monitoring activities and provides brief analyses of significant shifts in trade of major industrial sectors.

In FY 1991 the Commission will use 20 workyears and $1,680,000 for this activity, compared to 20 workyears and $1,529,000 in FY 1990.

Synthetic organic chemicals reports

The Commission publishes the annual production and sales report on synthetic organic chemicals and the raw materials from which they are produced. For the past several years, in anticipation of the January 1, 1989 U.S. adoption of the Harmonized System tariff nomenclature, the Commission has reported production and sales data on the basis of the new nomenclature in addition to the product groupings traditionally used in its annual reports. It also publishes the quarterly statistical report covering production of a selected list of synthetic organic chemicals considered to be representative of the industry. In FY 1988, the Commission received a request from the House Ways and Means Committee to formalize this report as a continuing survey under the authority of section 332 of the Tariff Act of 1930. The Commission continually seeks input from the chemical industry and the business public at large on ways to improve the accuracy and format of the report.

In FY 1991 the Commission will use eight workyears and $528,000 for this activity, compared to eight workyears and $475,000 in FY 1990.

Summaries of trade and tariff information

As an outgrowth of its ongoing responsibility for developing and maintaining the nation's primary store of technical tariff information, the Commission publishes summaries of trade and tariff information, as resources permit, for use as comprehensive reference sources by the Congress, the courts, other agencies, and the public. The summaries comprise a systematic and uniform source of information on domestic and foreign trade in, and customs treatment of, the articles enumerated in the tariff. The Omnibus Trade and Competitiveness Act of 1988 adopted the Harmonized System of Tariff Classification, effective January 1, 1989, switching commodity classification scheme from the Tariff Schedules of the United States Annotated.

The summaries of trade and tariff information assemble in readily usable form much of the information needed by the Commission to perform its major functions and to provide Congress, the President, and other Government officials with valuable information for dealing with trade problems such as import competition, trade-agreement negotiations, and legislation affecting foreign trade. The summaries also supply both importers and customs officials with information useful in determining the tariff classification and statistical classification of articles and provide information to domestic producers, importers, other business concerns, and consumers for use in management and planning. No other single publication is comparably organized for use by those interested in tariffs and international trade. Demand for many of the volumes has been high. Primary distribution is made within the Federal Government, with some copies going to reference libraries and the public.

Each summary encompasses one or more of the homogeneous commodities grouped on the basis of such characteristics as commodity composition, end use, customs classification, and availability of data on the producing industry. The depth of treatment given an individual commodity within a summary depends on its importance and sensitivity in U.S. trade. The complete "library" of summaries contains approximately 250 individual summaries and is based on the nomenclature of the Tariff Schedules of the United States. The Harmonized system is now in place and the Commission plans, as resources permit, to update the summary series beginning in fiscal year 1990, incorporating the new nomenclature of the Harmonized Tariff Schedule and trade data under the new nomenclature.

In FY 1991 the Commission will use five workyears and $352,000 for this activity, compared to four workyears and $261,000 in FY 1990.

Harmonized System and other nomenclature and classification activities

The Commission's expertise in tariff drafting and analysis, customs law, and related matters is of great importance in the U.S. Government's development and implementation of trade policy.

In FY 1989, many of the Commission's efforts in this area were centered around the Harmonized Tariff Schedule of the United States (HTS), which is based on the international Harmonized Commodity Description and Coding System, more commonly known simply as the Harmonized System or HS. The HS was developed between 1971 and 1983 at the Customs Cooperation Council (CCC) in Brussels, Belgium, by the Harmonized System Committee (HSC), with the United States participating in an observer status. The international HS was implemented on January 1, 1988, the United States became a contracting party to the HS Convention in October 1988, and the HTS was implemented on January 1, 1989. As a contracting party to the Convention, the United States now has full member status in the HSC.

The Omnibus Trade and Competitiveness Act of 1988 designated the Commission as one of three Government agencies responsible for formulating official U.S. positions on technical and procedural issues addressed by the HSC, as well as for representing the United States in the semi-annual sessions of the HSC and its working party. During FY 1989, Commission representatives participated in the HSC, as well as in the CCC's Scientific Subcommittee, and in October 1989, a Commission staff member was elected to a 1-year term as chairman of the HSC. In addition, the Commission is expected to participate in the HSC's recently established Review Subcommittee, which will meet twice a year to consider revision to the legal notes and nomenclature of the international HS.

In FY 1989, the Commission prepared and published the second, third, and fourth supplements to the first edition of the HTS. In addition, a fourth and final supplement to the TSUS, which was replaced by the HTS, was prepared and archived. The second and third editions of the HTS will be finalized and published in FY 1990 and FY 1991, respectively. Two to three supplements are expected to be published for each edition to reflect legislated, proclaimed, or statistical changes in the HTS.

Statistical annotations of the HTS and of the U.S. export schedule (Statistical Classification of Domestic and Foreign Commodities Exported from the United States, or Schedule B) are created, terminated or modified by the Committee for Statistical Annotation of the Tariff Schedules, also known as the 484(e) Committee. The Committee is an interagency body, chaired by the Commission, that considers requests from other Government agencies and the trading community regarding statistical annotations, many of which are intended to improve comparability between U.S. import and export data.

A major undertaking of the 484(e) Committee during FY 1989 and 1990 is the implementation of a memorandum of understanding between the U.S. Government and the Government of Canada, whereby each country will collect, through its import entry process, the export statistics of the other country. The program, implemented on January 1, 1990, is expected to ensure the publication of more complete and accurate export information than before and to provide savings to exporters and brokers through the elimination of export documentation requirements for shipments between the two countries. Annual adjustments to the HTS will likely be necessary to continue and improve this program.

Finally, it should be noted that the Omnibus Trade and Competitiveness Act of 1988 provides for new Commission activities with respect to the Harmonized System, including investigations: (a) to recommend changes to the HTS resulting from sustained Customs protests, (b) to make recommendations to the President to modify the HTS to implement internationally agreed to HTS changes, promote uniformity, ensure modernization, alleviate administrative burdens, and make technical corrections; and (c) to assess the operation of the U.S. Harmonized System after its first year.

The Commission projects the use of 15 workyears and $1,429,000 in FY 1991 for this activity, compared with 15 workyears and $1,304,000 in FY 1990.

Other recurring reports and services

This activity includes preparation of statistical reports containing trade and/or production data and other types of information on specific commodities as required by Congressional request, statute, Executive Order, or Presidential proclamation. Data on commodities is gathered through questionnaire surveys and through secondary data sources. It also includes preparation of the annual report to the Congress on the Commission's operations.

Many of the statistical reports, issued monthly, quarterly, or annually as required by Presidential proclamation or other legal requirement, provide current information on specific U.S. industries that have been adversely affected by imports. These reports do not include Commission determinations in investigations under the Trade Act of 1974 (activity 1A).

In FY 1989 the Commission published an annual report on certain stainless steel and alloy tool steel (Presidential Proclamation 5074), an annual report on rum (Senate Finance Committee request under section 332), monthly reports on the U.S. auto industry (House Ways and Means Committee request under section 332), monthly reports on the U.S. steel industry (House Ways and Means Committee request under section 332), quarterly reports on nonrubber footwear (Senate Finance Committee request under section 332), an annual report on competitive conditions in the steel industry (49 F.R. 36813, President's 9-point steel program), an annual report on various tungsten compounds (Presidential Proclamation 5718), and an annual report on trade under TSUS tariff provisions 806.30 and 807.00 (Commission initiated).

We expect that monitoring requests will continue to be made in all commodity areas where the Commission makes an affirmative section 201 finding and the President grants import relief, and in other areas of trade considered sensitive by the Congress or the President. We have allocated sufficient resources to continue to provide adequate research and analysis.

In FY 1991 the Commission will use 16 workyears and $1,310,000 for this activity, compared with 16 workyears and $1,203,000 in FY 1990.

ACTIVITY 4 - ASSEMBLING AND ANALYZING ECONOMIC AND TECHNICAL INFORMATION

PROGRAM ANALYSIS

(Dollar amounts in thousands)

Activity	FY 1989 actual		FY 1990 appropriation		FY 1991 base		FY 1991 estimate		Increase(+)or decrease(-) from FY 1991 base	
	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount
4. Assembling and analyzing economic and technical information:										
A. Information resources management	33	$2,277	36	$2,661	37	$3,053	37	$3,053	-	-
B. Professional assembly and analysis of information	23	1,549	24	1,713	25	1,934	25	1,934	-	-
Total assembling and analyzing economic and technical information	56	$3,826	60	$4,374	62	$4,987	62	$4,987	-	-

Requirements of the Tariff Act of 1930, Trade Act of 1974, Trade Agreements Act of 1979 and the Omnibus Trade and Competitiveness Act of 1988 set forth specified areas of international trade in which staff expertise is required. In order to stay abreast of developments in international trade and to respond promptly when an investigation or special study is instituted, or when requests for advice come from the Congress and the President, a significant portion of staff time must be spent in managing information resources. This includes the collection, assembly, and analysis of statistical, economic and technical information relating to imports and exports, and to changes in the conditions of competition between domestic and imported products. A principal long-term goal of the Commission is to obtain data on and analyze the factors involved in each domestic industry's competitive position vis-a-vis its foreign counterparts, and to be able to relate this information to tariff structures and nontariff barriers. To accomplish this goal it is necessary to build and maintain a basic fund of knowledge.

Information on individual industries and commodities, knowledge of generally accepted economic theory, and current information on the trade practices of major foreign economies are equally important components of the Commission's knowledge base. The Commission maintains data bases in several media formats including both computer generated and hard copy collections, both of which use the latest technologies to store and retrieve data. The Commission's computer data bases include information on U.S. production, imports, exports, and prices, and such data for leading foreign producing and exporting countries. Information is obtained through the regular collection, assembly, and analysis of data from domestic producers and importers, trade policy papers of the U.S. and foreign governments, studies and reports of the major international trade organizations, and other Government sources and trade publications. The Commission's libraries also maintain a large collection of material related to international trade and tariff affairs including information on the economies and trade-related policies of major trading countries, nonmarket economy countries and newly industrialized countries.

Information resources management

This activity provides support to all other Commission activities through development, administration and maintenance of agency-wide data bases. The data bases consist of library elements (books, periodicals,and automated reference services) and other printed information, micrographic copies of printed materials, and a large inventory of computerized files and records. This activity also includes the systematic collecting and processing of information; the development of new data bases and new and improved information processing and retrieval systems for use throughout the Commission; and the acquisition, installation, and maintenance of office automation hardware, software, and communications systems.

During the past year, the Commission continued to increase the use of automated information retrieval systems to provide better data base maintenance and information-processing capabilities. Modification of data bases and development of improved information retrieval capabilities is an on-going function, and has resulted in improvements in reports and in the Commission's ability to respond to requests for trade information. The Commission's data base development activities are coordinated with related activities in executive branch agencies through the Trade Policy Staff Committee.

Cataloging and title-searching capabilities of the Commission's library continue to improve due to the previous implementation of an automated library cataloging system (OCLC). The OCLC system is also being used for inter-library loan functions and for library acquisitions. In FY 1989, the library installed an automated card catalog that contains records for the library collection from 1981 to the present. In addition, during FY 1989, the library initiated action to acquire an automated circulation system to complement the automated card catalog.

The use of personal computers (PCs) and local area networks (LANS) continued to expand with the addition of high-capacity file servers and new software was acquired to further support investigative and trade monitoring efforts. The Commission's replacement of aging word-processing equipment was completed during FY 1989. The PC workstations and LANS now used for ITC word processing and data processing applications make the best possible use of rapidly evolving technology, increases responsiveness, enhances productivity, and improves the quality of the Commission's work. This expanded computer capability greatly enhances data processing, storage, information-sharing capabilities, and provides better control of the processing of sensitive data. Significant efforts have been directed toward servicing most major Commission computer activities at our facility, meeting the need for increased investigative support, and providing more direct technical support to enable end-users to do their own processing.

The Commission's workload requires a state of readiness and accessibility to data bases to support commodity analysis, trade monitoring, investigations and special research. The Commission must continue to systematically collect, analyze, and upgrade its data bases to be able to respond promptly to external requirements and keep abreast of developments in its field of responsibility in anticipation of future needs. By the increased use and improvement of its automated systems, and resulting reduction of manual data research operations, the Commission has been able to ensure that sufficient data is available to meet these responsibilities and to keep up with the increases in the quantity of data being maintained and analyzed without commensurate increases in staff resources.

In FY 1991 the Commission will use 37 workyears and $3,053,000 for this activity, compared to 36 workyears and $2,661,000 in FY 1990.

Professional assembly and analysis of information

The Commission must be prepared at all times to speak with authority on various aspects of the nation's international trade activities and on a wide range of economic and legal trade and tariff matters. Beyond the collection, assembly and processing of information, described above, this requires a continuing program to develop and maintain the competence of the professional staff. In addition to keeping informed of statistical trends, the professional staff must maintain technical data on a large number of commodities, know and understand domestic and foreign production and product distribution patterns, and be familiar with foreign economic conditions and trade-related policies. They must also keep abreast of the conditions of competition between U.S. and foreign products, the competitive capabilities of domestic and foreign enterprises and be able to translate this expertise into reports and papers based on sound financial, accounting and economic principles, for use by trade policy officials. This expertise is critical to the fulfillment of the Commission's responsibilities.

This staff development is accomplished through general fieldwork, basic research, review of U.S. and foreign economic trade and business sources, contact with private industry officials, participation in industry-Government conferences, expansion of Government and business contacts, and development and review of Government information. Some of this work requires travel by Commission personnel to keep current on trade or industry trends.

This activity must be maintained at a level that will ensure an ability to keep up with the changing nature of our caseload, changing economic factors affecting world trade, developments in foreign trade policies and practices, and the need to provide adequate technical input in areas of increasing importance to trade policy, such as intellectual property protection and government support of high-technology industries.

In FY 1991 the Commission will use 25 workyears and $1,934,000 for this activity, compared to 24 workyears and $1,713,000 in FY 1990.

ACTIVITY 5 - ADMINISTRATION

PROGRAM ANALYSIS

(Dollar amounts in thousands)

Activity	FY 1989 actual		FY 1990 appropriation		FY 1991 base		FY 1991 estimate		Increase(+)or decrease(-) from FY 1991 base	
	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount
5. Administration------------	64	$3,996	55	$3,675	57	$4,136	57	$4,136	-	-

This activity includes the Offices of the Director of Administration, Finance and Budget, Personnel, and Management Services (except the Publishing Division) which provide administrative support services for the entire Commission. In addition to the work of employees assigned full-time to administrative duties, staff time charged to this activity includes some work on Commission-wide administrative matters performed by nonadministrative employees, such as participating in union activities, occupational health and safety matters, equal employment opportunity (EEO) activities, ranking and selection panels, and data-processing activities related to administrative functions. As a result, the number of workyears charged to administration is larger than the number of employees assigned solely to those duties.

Major activities for the Office of Administration during FY 1989 included: 1) Participating in audits of the procurement system, property management inventory system, and financial statements for FY 1987 and 1988. The audits were performed by a public accounting firm which reported the Commission to be in compliance with applicable laws and regulations, and found no material weaknesses; 2) working with the National Security Agency to complete a physical security assessment, which led to further strengthening of the Commission's program for safeguarding sensitive information, with special emphasis placed on ADP security. The Commission's annual security-awareness program covers information security in addition to computer security training. NSA noted in its assessment that Commission staff has a sound professional awareness of its obligation to safeguard sensitive information; 3) handling labor-management activities of the Commission; 4) strengthening of the Commission's procurement and property management functions by completing installation of an automated property inventory management system, and embarking on the installation of an automated procurement management system; 5) continuing the use of automation including installation of a new generation of word-processing software agency-wide, and extensive in-house training for all ITC employees. In addition, a wide range of employee development activities was offered during the year to Senior Executive Service members, other managers, and the professional and support staff; and 6) improving publishing capabilities by the introduction of wrap-around binding for its public reports, as well as an upgrade to the high capacity reproduction equipment.

In FY 1991 the Commission will use 57 workyears and $4,136,000 for administration activities compared to 55 workyears and $3,675,000 in FY 1990.

ACTIVITY 6 - EXECUTIVE DIRECTION

PROGRAM ANALYSIS

(Dollar amounts in thousands)

Activity	FY 1989 actual		FY 1990 appropriation		FY 1991 base		FY 1991 estimate		Increase(+)or decrease(-) from FY 1991 base	
	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount
6. Executive direction-------	38	$3,314	40	$3,744	41	$4,141	41	$4,141	-	-

This activity includes the work of the Commissioners and their assistants and some work directly related to Commission-wide activities performed by other employees.

Although the Commissioners devote most of their attention to the substantive work of the Commission rather than to administration, the cost of the Commissioners' offices is included in this separate activity.

The Commission has allocated four full-time permanent positions to each Commissioner. These staffs provide assistance to the individual Commissioners and enable them to cope with the volume and complexity of their responsibilities. An additional two positions are allocated to the Chairman's office to assist in carrying out the required administrative duties of the Commission. These administrative duties increase the workload in that office because primary responsibility for virtually all administrative functions of the Commission is assigned to the Chairman.

For FY 1990 work-plans take into account vacancies in both Commissioner and supporting staff positions; however, in FY 1991 we anticipate that all positions authorized for Commissioners and their staffs will be filled.

In FY 1991 the Commission will use 41 workyears and $4,141,000 for this activity, compared to 40 workyears and $3,744,000 in FY 1990.

ACTIVITY 7 - INSPECTOR GENERAL

PROGRAM ANALYSIS

(Dollar amounts in thousands)

Activity	FY 1989 actual		FY 1990 appropriation		FY 1991 base		FY 1991 estimate		Increase(+)or decrease(-) from FY 1991 base	
	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount	Work-years	Amount
7. Inspector General----------	1	$133	3	$271	3	$315	3	$315	-	-

The Inspector General Act Amendments of 1988 required 33 designated Federal entities, including the U.S. International Trade Commission, to establish an independent Office of Inspector General within 180 days. Prior to this law, the Commission did not have an internal audit office, and all audit functions were performed under contract with a public accounting firm.

The Commission's Office of Inspector General was officially established on February 2, 1989, and it began operations on April 17 when the Inspector General position was filled. To comply with the law's mandate for independence and neutrality, the Inspector General reports directly to the Chairman and has no program responsibilities.

The Inspector General is responsible for directing and carrying out audits and investigations relating to Commission programs and operations, and for reviewing and commenting on proposed legislation, regulations, and procedures regarding their economy, efficiency, and effectiveness. The activities and accomplishments of the Office of Inspector General are included in semi-annual reports submitted to Congress in November and May each year.

The Commission has allocated two full-time permanent positions to this activity in addition to providing contract audit services, and has authorized audit assistance using personnel from other federal agencies on a reimbursable basis. The actual time charged to this activity in FY 1989 was less than the two workyears authorized because the positions were not filled until the third quarter. The Commission projects the use of three workyears and $315,000 for this activity in FY 1991, compared to three workyears and $271,000 in FY 1990.

UNITED STATES INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

(in thousands of dollars)

Object Classification	FY 1989 Actual	FY 1990 Expenditure Plan	FY 1991 Budget Request
Personnel compensation	$20,026	$21,795	$23,499
Personnel benefits	3,288	3,932	4,476
Travel and transportation of persons	596	600	750
Transportation of things	52	30	20
Space rental	6,149	6,150	6,450
Communications, utilities and miscellaneous charges	1,265	1,345	1,505
Printing and reproduction	202	245	325
Other services	2,787	3,075	3,835
Supplies and materials	774	805	985
Equipment	599	500	585
Total obligations	$35,738	$38,477	$42,430

Mr. **Smith.** The Chairman is Anne Brunsdale. Are there other commissioners here?

Ms. **Brunsdale.** Yes, sir. Vice Chairman Ronald Cass and Commissioner David Rohr are in the room. Also seated next to me is Phil Katz, the ITC's budget officer.

Mr. **Smith.** I see. How many commissioners do you have?

Ms. **Brunsdale.** Six.

Mr. **Smith.** Six?

Ms. **Brunsdale.** Yes.

Mr. **Smith.** Do you have a statement?

Ms. **Brunsdale.** Just a very brief one.

Mr. **Smith.** All right, please proceed.

General Statement

Ms. **Brunsdale.** Mr. Chairman, and Members of the subcommittee, thank you very much. I am pleased to be here with you this afternoon.

My job is to present to you the U.S. International Trade Commission's budget request for fiscal year 1991. But before I do so, let me introduce to you the gentleman seated beside me, Mr. Katz, who is making his first appearance here as the Commission's Director of Finance and Budget. Also in the room , as I stated, are Vice Chairman Ronald Cass and Commissioner David Rohr.

BUDGET REQUEST

The request that I am presenting to you has the approval of the majority of the Commission. It totals $42,430,000 for fiscal year 1991, and provides for 502 full-time permanent positions. At the request of our authorizing committees, I am also submitting a fiscal year 1992 authorization request. This request totals $46,673,000, and it also has the Commission majority's approval.

In developing our 1991 budget request, we have held our programs and staffing at current authorized levels. That is to say, the increases do not reflect growth in operations. The $42,430,000 that we have requested for fiscal year 1991 is about 10 percent higher than our authorized fiscal year 1990 appropriation. The increase is necessary to fund normal operating expenses and nondiscretionary salary costs, including fifty percent funding of the proposed January 1991 pay raises as recommended by OMB.

The Commission has two primary responsibilities under the trade laws. First, in our quasi-judicial capacity, we make injury and causation determinations under a number of import relief laws, with Title VII of the Tariff Act of 1930 generating up to two-thirds of that case load.

Second, in what I like to call our "think-tank" capacity, we provide assistance, analysis and fact-finding studies on trade issues for the Executive and Legislative Branches.

WORKLOAD

Looking at the past five years, the Commission's total investigative workload, which includes both our quasi-judicial investigations and Section 332 studies, declined. It declined from 239 new investigations in fiscal year 1985 to a low of 92 in fiscal year 1988, and then rose to 119 in fiscal year 1989.

As for the next two years, staff initially projected 126 new investigations for fiscal year 1990, and 125 for 1991. But recently, in light of only 20 actual institutions through the first five months of fiscal year 1990, staff lowered its projection to 105 cases in 1990, and 119 in 1991. That included a reduction in the Title VII estimate from 75 cases to 60.

I should note that while our investigative workload is indeed low, there is not a one-for-one correlation between caseload and the resources we need to fulfill our responsibilities.

This is true for a number of reasons. First, our individual cases and section 332 studies tend to be larger in scope and to require greater analytical sophistication than previously. Moreover, the new programs we have instituted on data verification and statistical support will increase somewhat the number of work years devoted to each investigation. Furthermore, the many new changes that are occurring in the international trade environment require us to look at new developments abroad and to acquire greater expertise in foreign markets.

In addition to our regular investigative workload, the Commission expects to continue to be heavily involved this fiscal year and next in providing support to USTR in connection with the Uruguay Round of negotiations, as well as trade agreement negotiations with the Soviet Union and Eastern European countries, implementation of the U.S.-Canada Free Trade Pact and other trade initiatives. Moreover, should the Uruguay Round culminate, as we hope, in legislation in 1991, additional work will come to us from that quarter. Finally, we expect to continue to provide Congress with technical assistance on a wide range of trade issues.

During the past year, as you will recall, new legislation required the Commission to create two new offices, the Office of the Inspector General and a separate Trade Remedy Assistance Office with expanded responsibilities. I am happy to report that both offices are now staffed and fully operational.

It hardly needs to be said that trade issues will remain in the forefront of public debate for some time. As a result, the Commission will continue to have an important role to play. In this connection, it's important that Congress have confidence in the Commission's ability to provide sound analysis and data to trade policymakers, to investigate responsibly claims under the import relief laws, and to respond to new developments. Our request for fiscal year 1990 will provide sufficient resources to meet these demands.

I will be pleased to answer any questions you may have. Thank you very much.

[The prepared statement of Ms. Brunsdale follows:]

STATEMENT OF CHAIRMAN ANNE BRUNSDALE
UNITED STATES INTERNATIONAL TRADE COMMISSION
BEFORE THE SUBCOMMITTEE ON COMMERCE, JUSTICE, AND
STATE, THE JUDICIARY, AND RELATED AGENCIES
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES
MARCH 12, 1990

Mr. Chairman and members of the Subcommittee, I am pleased to be here today. My task is to present to you the U.S. International Trade Commission's budget request for fiscal year (FY) 1991. Seated beside me is Phil Katz, the Commission's Director of Finance and Budget. Also in the room today are Vice Chairman Ronald Cass, and Commissioners Alfred Eckes and David Rohr.

The Budget Request

The budget request that I am presenting has the approval of the majority of the Commission. It totals $42,430,000 for FY 1991 and provides for 502 full-time permanent positions.

In developing its FY 1991 budget request, the Commission examined its needs and sought to improve its utilization of resources. The increases do not represent growth in either program or operating levels. Rather, they maintain Commission operations at current authorized levels, and provide sufficient resources to allow the Commission to accomplish its mission.

The $42,430,000 requested for FY 1991 represents an increase of $3,953,000 (a little more than 10 percent) over our FY 1990 appropriation less the Gramm-Rudman-Hollings sequestration. Almost 57 percent of this increase (or $2,248,000) is for nondiscretionary salary costs, including anticipated step increases, promotions and related benefits, as well as 50-percent funding for the effects of the proposed January 1991 pay raises recommended by the Office of Management and Budget. Due to this absorption of additional expenses, the Commission plans to maintain approximately 25 staff vacancies throughout fiscal year 1991. The balance of the increase ($1,705,000) is for necessary support services, including rent, utilities, and other services.

Overall Workload

The Commission's substantive responsibilities involve cases under the import relief statutes and reports under section 332 of the Tariff Act of 1930 (19 U.S.C. § 1332). Our total investigative workload, which declined from 239 new investigations in FY 1985 to a low of 92 in FY 1988, increased to 119 in FY 1989. As for the current year, at the time the Commission submitted its FY 1991 budget, staff projected 126 new investigations for FY 1990 and 125 for FY 1991. Subsequently, with the actual cases instituted through the first five months of FY 1990 reaching only 20, staff revised its projections to 105 cases in FY 1990 and 119 in FY 1991.

In addition to our regular investigative workload, the Commission is heavily involved at this time in providing background support to Executive Branch efforts on the GATT-sponsored Uruguay Round of trade negotiations, negotiations for a trade agreement with the Soviet Union, and other trade initiatives.

Import Relief Investigations

(1) The major portion of our caseload consists of investigations under the antidumping and countervailing duty statutes (section 303 and title VII of the Tariff Act of 1930, 19 U.S.C. §1303, 1671 et seq.). Looking at recent trends, our title VII caseload declined from 185 new investigations in FY 1985 to 65 in FY 1988 and then increased to 78 in FY 1989. Staff now projects 60 new title VII investigations in FY 1990 and 75 in FY 1991. In the first five months of FY 1990 we instituted only 7 title VII cases compared to 43 in the same period for FY 1989.

While our title VII caseload remains low, the individual cases tend not only to be more complex but to involve industries having large volumes of imported products. Recent investigations of certain small business telephone systems and all-terrain vehicles affected nearly $700 million worth of imported products each, and the investigation of antifriction ball-bearings affected nearly $400 million of imports. The final antidumping investigations involving 3.5 inch microdisks and antifriction bearings consumed 4,183 and 5,024 hours of staff time, respectively. It is expected that the sophistication of the analysis required by our cases will continue to increase. Moreover, the Commission's new programs involving data verification and statistical support will increase somewhat the number of workyears devoted to each investigation.

(2) Among some of the Commission's more publicized investigations are the so-called escape-clause cases -- that is, cases in which petitioners need not allege an unfair trade practice in order to obtain import relief. These cases are filed under section 201 --or, for non-market countries, section 406 -- of the Trade Act of 1974 (19 U.S.C §§ 2251 and 2436). They require the Commission to determine whether domestic industries are eligible for import relief and to recommend appropriate action to the President.

During FY 1989, the Commission did not institute any escape clause or review investigations. Staff projects two escape clause investigations in FY 1990 and two in FY 1991.

(3) The Commission expects that significant resources will continue to be devoted to investigations under section 337 of the

Tariff Act of 1930 (19 U.S.C. § 1337). These investigations are based on complaints alleging unfair methods of competition and unfair acts in the importation or sale of articles into the United States. Typically, they involve alleged infringement of an intellectual property right, such as a patent, trademark, or copyright. The Commission recently completed an important investigation in the area of biotechnology, and we are currently conducting significant investigations involving pharmaceuticals, aramid fibers, and computer chips (semiconductors).

Staff projects 18 new section 337 investigations in FY 1990 and 18 in FY 1991, compared to 16 in FY 1989. During the first five months of the fiscal year, 6 such investigations were instituted. It should be noted here also that the number of investigations instituted does not, of itself, accurately reflect workload. The complexity of the technology at issue in a 337 case, the number of alleged unfair acts, and the level of staff participation required in each investigation must be taken into account.

The Omnibus Trade and Competitiveness Act of 1988 amended section 337 in several respects that are significant for budgetary purposes. Most important, under the new law, if a section 337 complaint includes a request for temporary relief, the Commission must render a decision on such relief within 90 days (or 150 days in more complicated cases) and may require complainants to post bonds in order to obtain temporary relief. The 1988 Act also authorized the Commission (1) to order seizure and forfeiture of articles under certain conditions, (2) to issue limited exclusion and cease-and-desist orders against respondents that fail to appear, and (3) to impose greater penalties for violation of cease-and-desist orders. As a result of these amendments, section 337 investigations should be less costly for complainants in most instances, but will require more staff time per investigation.

Studies and Reports

The Commission frequently receives requests from Congress or the President to conduct investigations on trade and tariff issues under section 332 of the Tariff Act of 1930 (19 U.S.C. § 1332). Staff expects requests to institute 23 new section 332 studies in FY 1990 and 22 in FY 1991, compared with 19 in FY 1989 and 12 in FY 1988. All of the studies we instituted in FY 1988 and FY 1989, as well as in the first five months of FY 1990, were the result of a congressional or a presidential request.

So far in FY 1990, the Commission has instituted seven new section 332 studies, bringing total studies in progress up to 12. Of these, 4 were requested by the President and 8 by Congress. The four studies requested by the President are underway: Service Sector Profiles and Barriers to Trade in Services; Competitive Position of the U.S. Gear Industry in U.S. and Global Market; Estimated Tariff Equivalents of U.S. Quotas on Agricultural Imports and Analysis of Competitive Conditions in U.S. and Foreign Markets for Sugar, Meat, Peanuts, Cotton, and Dairy Products; and Conditions of Competition In U.S. Market Between U.S. and Mexican Fabricated Automotive Glass. Among the studies underway at the request of Congress are The Economic Effects of Significant U.S. Import Restraints - Phase II (Agriculture); The Effects of Greater Economic Integration Within the European Community on the United States -- Phase II; Report on Trade and Investment Liberalization Measures by Mexico and Prospects for the Future; Report on Japan's Distribution System and Options for Improving U.S. Access; Durum Wheat: Conditions of Competition Between the U.S. and Canadian Industries; and International Agreements to Protect the Environment and Wildlife.

Congressionally requested studies completed during FY 1989 include: The Western U.S. Steel Market: Analysis of Market Conditions and Assessment of the Economic Effects of the Voluntary Restraint Agreements on Steel-Producing and Steel-Consuming Industries; Report on the Pros and Cons of Entering into Negotiations on Free-Trade Area Agreements with Taiwan, the Republic of Korea, and ASEAN, or the Pacific Rim Region in General; Ethyl Alcohol and Mixtures Thereof: Assessment Regarding the Indigenous Percentage Requirements for Imports in Sec. 423 of the Tax Reform Act of 1986; The Economic Effects of Significant U.S. Import Restraints (Phase I--Manufacturing); Competitive Conditions in the U.S. and World Markets for Fresh Cut Roses; The Economic Effects of Greater Economic Integration within the European Community on the United States (Phase I); The Effects of the Steel Voluntary Restraint Agreements on U.S. Steel Consuming Industries; and Importation of Certain Drug Paraphernalia into the United States. The studies on ethyl alcohol and roses were required by the Omnibus Trade and Competitiveness Act of 1988.

Studies completed in 1989 for the President include: Competitive Conditions in the U.S. Market for Asparagus, Broccoli, and Cauliflower; Men's and Boys' Woven Man-Made Fiber Shirts from the People's Republic of China; Service Sector Profiles and Barriers to Trade in Services; Agricultural Tropical Products--Literature Search Regarding Trade Distortions and Effect of Trade Liberalization, and Calculation of Tariff Equivalents; United States/Israel Free-Trade Agreement--Probable Effects on U.S. Industry and Consumers of Certain Remaining U.S. and Israel Tariff Reductions; Probable Economic Effect of Providing Duty-Free Treatment for Watches Under the Generalized System of Preferences; Foreign Investment Barriers or Other Restrictions that Prevent Foreign Capital from Claiming the Benefits of Foreign Government Programs; Changes in EC Government Procurement in Excluded Sectors and the Impact of U.S. Industries; Conditions of Competition Between U.S. and Mexican Lime in the United States Market; Certain Unmanufactured Cigarette Leaf Tobacco: Probable Economic Effect of Removal from Eligibility for Duty-Free Treatment Under the Generalized System of Preferences; Advice Concerning Probable

Effects of Modification of Rules of Origin under the U.S.-Canada Free Trade Agreement for Certain Animal Fat and Vegetable Oil Products; Tropical Products: Probable Economic Effects on U.S. Industries and Consumers of Elimination of U.S. Tariffs; and Probable Economic Effect on U.S. Industries and Consumers of Modification of U.S. Tariffs Under the Uruguay Round.

In addition to the assistance provided to the USTR in the form of 332 studies, probable effects investigations, and trade monitoring work, the Commission provides a wide variety of assistance in the form of direct staff details, assistance on presidential proclamations, assistance with multilateral and bilateral trade negotiations/agreements, modification of the GSP, and in the generation and maintenance of a variety of trade information. Further, Commission staff provides technical commentary and analysis to support the U.S. Delegations to the Uruguay round trade negotiations on antidumping, subsidies and countervailing measures, and safeguards.

The Commission is already seeing an increase in the work in support of USTR in FY 1990 as the pace of MTN activities increases. We have detailed two staff members to assist the USTR in the MTN negotiations in Geneva and another three to provide back-up in the USTR's Washington office. In addition, we are beginning work on our third major GSP investigation this year, whereas we normally are requested to do only one such study each year. We have also seen increased need to assist the USTR in a wide variety of activities related to the U.S/Canada FTA. In addition, the Omnibus Trade and Competitiveness Act of 1988 opens the possibility of a number of new types of 332 investigations, including the monitoring of "downstream" product dumping and additional monitoring related to escape-clause actions. The extent to which these provisions will generate additional work is unknown at this time.

The Commission will continue to play an important role in Harmonized System activities in the coming years. During FY 1987 and FY 1988, much of our effort in this area was focused on converting the U.S. customs tariff into the nomenclature structure of the Harmonized System. With the publication of the Harmonized Tariff Schedule in FY 1989, we expect the Commission's work in this area will focus on advice and assistance. In this regard, the 1988 Act authorizes the Commission (1) to recommend changes to the Harmonized Tariff Schedules resulting from sustained Customs protests, (2) to recommend to the President ways of modifying the Harmonized Tariff Schedules to implement international agreements that promote uniformity, to ensure modernization, to alleviate administrative burdens, and to make technical corrections, and (3) to assess the U.S. Harmonized System after its first year of operation.

The Commission continues to produce periodic reports on specific topics as required by presidential proclamation or other legal requirement. In FY 1989 these included reports on non-rubber footwear, rum, autos, tungsten, the performance of the steel industry, and lamb meat. Copies of these reports are provided to Congress, the Executive Branch, and other agencies, as well as to requestors outside the Government.

In addition to these reports and studies, the Commission provides numerous background reports on proposed legislation to the Commission's oversight committees, as well as a great deal of informal assistance. This demand is expected to continue.

Trade Remedy Assistance

The 1988 Act expanded the scope of our trade remedy assistance program by requiring the Commission to establish a separate Trade Remedy Assistance Office and to render technical assistance, up through appeals to the administering agency (including informal legal advice), to eligible small businesses seeking remedies and benefits under certain trade laws. The number of requests for assistance rose from 230 in FY 1988 to 320 in FY 1989. Additional interest is expected in FY 1990 and FY 1991, particularly in view of the Act's requirement that the Small Business Administration facilitate access to the Trade Remedy Assistance Office. The resources used to staff this function were absorbed within the Commission's 502 authorized permanent positions.

Office of Inspector General

Pursuant to the Inspector General Act Amendments of 1988, the Commission established an independent Office of Inspector General in FY 1989. This office broadens our internal audit program, which is designed to ensure that Commission administrative and program activities are in compliance with Federal regulations and practices. During FY 1990, the Inspector General will audit the statistical methods used to gather Commission data, the Commission's budget process, and the Commission's data verification program, in addition to other more routine program and financial matters. The resources used to staff this function were absorbed within the Commission's 502 authorized permanent positions.

Litigation Workload

The Commission has authority to appear in court on its own behalf, rather than refer cases to the Department of Justice. The size of our litigation caseload has decreased in the last two years from 84 active cases in January 1988 to the current level of 54.

Conclusion

It is likely that trade and trade legislation will remain in the forefront of public debate for several years. As a result, the Commission will continue to play an important role. The Uruguay Round of trade negotiations has created increased demands for comment and advice that are requiring a substantial commitment of Commission staff. Changing trade barriers, continued concerns over the treatment of intellectual property rights, and new political and economic conditions throughout the world will all demand sophisticated analysis in import relief investigations and fact-finding studies requiring greater expertise in both international trade and industrial organization.

It is important that Congress have confidence in the Commission's ability to provide sound analysis and data to trade policy makers and at the same time to fulfill its responsibility for investigating claims under the import relief laws. The Commission's budget request for fiscal year 1991 will provide sufficient resources to meet these demands.

I will be pleased to answer any questions you may have.

Thank you.

Mr. **Smith**. I am a little bit puzzled, I guess. All we have been hearing for the last two years is trade negotiations. We are not doing enough. We are getting out-traded. We have got to do better at GATT. We have got to do better everywhere to protect our trade positions. Every agency we have talked to that deals with these negotiations seems to have big increased workloads and still have not fully implemented the 1988 act. Yet you apparently have a smaller workload. Why is that?

Ms. **Brunsdale**. Yes, we do have a smaller caseload. That is, the number of investigations instituted is smaller.

That doesn't mean that the decrease in the caseload is reflected in an equally steep decrease in our total overall work.

Mr. **Smith**. But you have got a smaller number of staff positions, too.

Ms. **Brunsdale**. We——

FACTORS AFFECTING CASELOAD

Mr. **Smith**. Do you plan to maintain 25 vacancies in your 502 staff positions?

Ms. **Brunsdale**. I think that we had a lapse rate pretty close to that in previous years. Actually, in 1989, we had a lapse rate of—lapses amounting to 36 positions.

Mr. **Smith**. Why hasn't your workload increased, and why don't you anticipate increases in your workload like all the other agencies that are involved in trade? What is the difference and your part in the trade equation?

Ms. **Brunsdale**. That is a very good question, Mr. Chairman. To answer it, let me divide our total workload into the things we do in the way of studies, responses to congressional requests, responses to USTR requests, that sort of thing.

Mr. **Smith**. And these determinations?

Ms. **Brunsdale**. And the investigations, yes.

In the first category, the workload hasn't decreased as far as I can tell. If it has, it's just a little.

In the second category, the case determinations, there has been a quite significant decrease. I think there are good reasons for it. I am speaking now for myself. We don't have an official Commission opinion on this issue.

I think it stems, the decrease stems from three major factors. One is the long substantial growth in the economy for something like eight years now. The economy has been growing, and in order to get an affirmative determination from the Commission majority under one of our cases, and the statutes that we administer, it is generally necessary for an industry to show injury, one can see that it's a little more difficult to prove injury after eight years of economic growth.

There are fewer industries out there, it seems to me, that are feeling hurt. Fewer of them, therefore, come to our Commission.

Mr. **Smith**. I don't quite see how that follows. The automobile industry thinks they are hurt, and they have had a lot of growth in the last several years. Doesn't this relate more to the amount of competition from overseas than it does to whether or not we have had growth in our own economy?

Ms. **Brunsdale**. Well, to get an affirmative majority from the International Trade Commission, you generally have to be able to show declining sales and declining income.

I am not an automobile specialist, but I don't think that in recent years the automobile industry has shown declining sales and income, so——

Mr. **Smith**. Well, they have in the last year, but probably not in the year before.

Ms. **Brunsdale**. The dumping might be occurring, for example, but the perception of injury or the ability to prove injury to the satisfaction of the Commission's majority is not there.

Mr. **Smith**. I interrupted you. You started to tell us why you have less workload and other agencies have more.

Ms. **Brunsdale**. Okay. The second reason why we have fewer cases, I believe, is the change in exchange rates, which came about beginning in mid-1985.

Since then, the dollar has gone down in value, making imports more expensive and making our exports less expensive; and that has, I think, had an effect on our cases.

And then thirdly, there has been the increase over the last decade in quantitative restrictions and various kinds of non-tariff barriers—the steel VRAs, the machine tools arrangement, the semiconductor agreement, the special arrangement on soft wood lumber, a number of others. What has happened is that we have, in a sense, reduced the demand for the ITC's services by giving protection through other means to quite a large share of the U.S. economy.

Mr. **Smith**. But now we have had all these mergers, acquisitions and companies acquiring half a dozen other companies. Doesn't this make each case much more difficult?

Ms. **Brunsdale**. Yes, and more complex; yes.

Mr. **Smith**. Well, then, why doesn't that result in a substantial pressure for more personnel time?

Ms. **Brunsdale**. It does offset the effect on workload that derives just from case count, indeed it does. Our cases are becoming more complex. We are using more complex analysis in our cases. We are spending more time in our analysis investigating foreign markets, for example.

So that is—you are now talking about the other side of the ITC's business where, as I say, we are not experiencing a decline in need for resources.

Mr. **Smith**. Well, now, what about these injury determinations? Has the backlog increased or decreased there, and the time required to get a determination?

Ms. **Brunsdale**. Since we respond to a statutory deadline, there have been no measurable changes in the amount of time it takes to get a determination. That is, we have to initiate a case on a certain day, and we have to complete it on a certain day, as prescribed by statute.

Mr. **Smith**. Well, if you have to do that, and you had twice as many cases, would you still be able to do that with the same number of personnel?

Ms. **Brunsdale**. Today?

Mr. **Smith**. Yes.

Ms. **Brunsdale**. We would hire up pretty fast. I would feel sure that our managers, seeing——

Mr. **Smith**. So you can set a schedule in statute, but that doesn't necessarily say you can or do follow it. I mean, you can shorten it, too?

Ms. **Brunsdale**. If we should suddenly get an increase in cases, I am sure that the ITC staff, our ITC managers would begin to start looking for additional people very quickly.

Mr. **Smith**. But are these being handled essentially at the same speed and with the same care that they have been in previous years?

Ms. **Brunsdale**. Yes, sir.

Mr. **Smith**. I have some more questions, but I will yield at this time.

Mr. **Rogers**. I will yield to Mr. Regula.

TITLE VII DETERMINATIONS

Mr. **Regula**. Just one question.

The criticism I hear of people who have tried to use the mechanisms of the ITC is that after they get a result, a finding, it's difficult to do anything about it, to get any implementation.

How would you respond to that?

Ms. **Brunsdale**. As the chairman of the ITC, my first response would be that I think that is the Commerce Department's business.

After an affirmative determination in a Title VII case by the ITC, the duties are imposed by Commerce.

Mr. **Regula**. Well, it may be that the coordination isn't as good as it should be because the criticism that I hear is that it's an expensive procedure, and then it's difficult to get any definitive results once you have been successful.

Ms. **Brunsdale**. I haven't heard that specific criticism. That is very interesting. I have heard a criticism from the other end—that is, from the importer, who says that he tries to get a review investigation and has a great deal of trouble getting a review investigation.

Mr. **Regula**. Well, you operate much faster now under the new trade act; is that true?

Ms. **Brunsdale**. I don't think there has been any increase in the schedule in our statutory investigations.

Mr. **Regula**. Okay.

I yield.

ASSISTANCE TO THE PRESIDENT AND CONGRESS

Mr. **Rogers**. Now, Madam Chairwoman, one of the duties of the Commission and the Tariff Act of 1930 is to provide the Congress and the President with expert advice to assist in the development and implementation of U.S. international trade policy.

We are not doing so well trade-wise. For years the U.S. has said let's meet in the marketplace, let's compete in the marketplace.

And finally the world says, okay, you are on, we will meet you in the marketplace. And we find ourselves with a trade deficit of 150 or so billions of dollars, not getting much better; in fact, not getting any better with respect to Japan and West Germany.

So I am looking for some expert advice. How can we turn this thing around?

Ms. **Brunsdale**. Let me preface anything I might say with the remark that the ITC isn't in the trade policy business. We rarely get involved in giving advice on policy matters.

Mr. **Rogers**. Well, I beg to differ with you. Your own justification on page 1 says to me that one of your specific responsibilities under the Trade Act that authorized the Commission is to provide the Congress and the President with independent expert advice to assist in the development and implementation of U.S. international trade policy.

I mean, that is what you are supposed to do, isn't it, among other things?

Ms. **Brunsdale**. Yes. And we do provide background studies as requested by the USTR and by Congress, studies that are of particular use to you in the formulation of your policy.

Mr. **Rogers**. That is my question. How do we turn the trade policy we got with other countries around? I mean, this is the nitty-gritty of what the 1990s are going to be all about. We are losing the war, the trade war.

Ms. **Brunsdale**. If you will permit me, sir, I think that reasonable minds may differ on that. I don't know the answer to all questions on trade matters. But I would observe that it's my understanding, and again, I am not a fiscal economist, that—with respect to the trade deficit—the budget deficit is basically the problem. In other words, if the budget deficit would fall, the trade deficit would also fall, not perhaps on a one-for-one basis, but it would fall.

Mr. **Rogers**. Why is that so?

Ms. **Brunsdale**. As I say, I am not a fiscal economist. I really don't think I can give you a coherent explanation for that.

Mr. **Rogers**. Well, your caseload is down on the number of actual disputes that you are citing, and you cannot give us any advice on how to solve the trade problem, why should we increase your funding? What is in it for us?

We are looking for a deal here. We are looking for a way to solve the trade deficit, and you say that is not your business, contrary to what the statute says?

Ms. **Brunsdale**. We can and do provide studies on issues like competitiveness. We can provide studies covering an enormous number of research topics. I presume if Congress should request us to come up with a policy prescription, we would do our level best to respond.

It isn't a role, sir, that we have been asked—the policy role isn't one that we have been asked to get into deeply in the past.

Mr. **Rogers**. Thank you very much.

Mr. **Smith**. What effect has the 1988 trade bill had on your operation?

Ms. **Brunsdale**. It has required us to do a number of studies, and I believe we have completed almost all of them.

It also requires that we do some trade monitoring, which we have underway. There were changes in the law with respect to some of the dumping and CDV provisions, which took a little——

Mr. **Smith**. Is that down, too?

Ms. **Brunsdale**. Yes. And again, those changes took a little getting used to, which in turn took some time.

The Act requires us to release confidential business information in our Title VII cases under administrative protective order. That procedure has been fully implemented and is watched over and studied by the Commission because it is an important new innovation. I think that program is going very well.

The Act requires a number of other things, all of which we have——

Mr. **Smith**. There is nothing left to be done that you were requested to do under that Act?

Ms. **Brunsdale**. Not that I can recall. The Harmonized Tariff System is completed, and when it became effective, as you know, in January of 1989, the 1988 Act did require the Commission to do a certain amount of care and tending of the Harmonized System, in its first couple years.

U.S.T.R. SUPPORT

Mr. **Smith**. What type of services are you currently giving the United States Trade Representative?

Ms. **Brunsdale**. Quite a number. The US Trade Representative obviously has a greater need for bodies and for services this year, and perhaps next, than it has in many years in the past.

We currently have five professionals who are detailed to the USTR. One of them is a computer expert. Three of them are trade analysts, and the fifth is——

Mr. **Smith**. Are they working out of Washington or where the negotiations are going on?

Ms. **Brunsdale**. Two of them are working in Geneva, and three are working here in Washington.

Mr. **Smith**. Are there other types of services?

Ms. **Brunsdale**. We are doing service sector profiles, various studies in support of negotiations and, we are doing studies of investment liberalization measures for the Congress.

There is a gear industry study that the USTR requested and a number of other studies.

Mr. **Smith**. Are you reimbursed for those services?

Ms. **Brunsdale**. No.

Mr. **Smith**. Not at all?

Ms. **Brunsdale**. No.

STATUS OF AUTHORIZATION

Mr. **Smith**. What is the status of your authorization?

Ms. **Brunsdale**. Senate Finance has adopted or passed our authorization request, and it's my understanding that the Ways and Means Subcommittee will act on it tomorrow.

Mr. **Smith**. Do you expect that to pass in both houses fairly soon?

Ms. **Brunsdale**. I would expect so, yes, sir.

Mr. **Smith**. Is this a one-year authorization or more?

Ms. **Brunsdale**. I think they are two.

Mr. **Smith**. They are two-year authorizations?

Ms. **Brunsdale**. Yes.

Mr. **Smith**. Okay. Thank you for testifying today, Ms. Brunsdale.

Ms. **Brunsdale**. Thank you very much.

[The following questions were submitted to be answered for the record:]

RESPONSE OF ANNE BRUNSDALE, CHAIRMAN [1]
U.S. INTERNATIONAL TRADE COMMISSION
TO QUESTIONS FROM HOUSE APPROPRIATIONS SUBCOMMITTEE

Questions Submitted By Congressman Smith

Status of Authorization

Question

2. Do you anticipate any changes in your final authorized funding levels from the amount included in your budget request?

Answer

The Senate Committee on Finance has approved an authorized FY 1991 funding level for the Commission at the requested level of $42,430,000; the Committee on Ways and Means has approved an authorized FY 1991 funding level for the Commission of $41,170,000. Full House and Senate action has not yet been completed.

Effect of Sequestration and Other Cuts

Question

1. The amount appropriated to the Commission in fiscal year 1990 was more than $900,000 less than what you originally requested. Sequestration took an additional $500,000 from the Commission's 1990 funding level. What has been the effect of the combined reduction of over $1.4 million?

Answer

The Commission has been able to absorb the reduction with no net effect on existing programs. Across the board cuts were made in nonpersonnel activities including travel, printing, supplies, and other services. In addition, the Commission raised its projected lapse rate from the original budget projection of 5 positions to a new lapse rate of 25 positions.

Question

2. Were any specific activities completely eliminated, or did you apply the reductions across the board?

Answer

The Commission applied the reductions across the board and did not eliminate any program activities.

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[1] Pursuant to 19 U.S.C. 1331(a)(3), the views stated herein are those of Chairman Brunsdale and not necessarily those of the Commission or its members.

FY 1991 Request

1. Your statement indicates that due to the absorption of 50 percent of the cost of the January 1991 pay raise, you plan to maintain vacancies for 25 of your 502 staff positions.

Question

a. Since the Commission is not required to submit its budget request to OMB for approval, why was it necessary for you to absorb any of the cost of the pay raise?

Answer

After reviewing projected workload requirements, the Commission determined that it could absorb 50% of the pay raise and still meet its statutory responsibilities during FY 1991.

Question

b. Since you are planning to lapse these 25 positions, is it fair to assume that the Commission does not require the full complement of 502 positions?

Answer

While the Commission has planned a lapse of 25 permanent positions in its FY 1991 budget request, it does not have control over the volume and timing of the bulk of its workload and cannot directly control the scale of many of its programs. In its adjudicative investigations, the Commission must respond to petitions or complaints filed by private parties. Furthermore, these investigations must be completed within stringent statutorily prescribed deadlines. Commission responsibilities also include providing support and advice to the Congress, the President, and the United States Trade Representative on trade matters. We are currently heavily involved in support of the Uruguay Round negotiations, in studies on the newly implemented Harmonized System, the U.S.-Canada Free Trade Agreement, trade with Mexico, EC 1992 integration, and trade with Japan. In light of the rapidly changing economic and political conditions throughout the world, it is unclear what the overall effect will be on the Commission. Therefore, it would be premature in light of ongoing trade developments to request a permanent reduction in staffing level at this time.

Question

c. Please provide for the record a breakout of the 25 planned vacancies by program activity.

Answer

The Commission does not have control over the volume and timing of a majority of its workload, but instead it responds to external demands. As these external demands vary from planned levels, the Commission shifts resources among activities to meet statutory requirements. Therefore, while we have planned for a 25 position vacancy rate, this rate is planned against all offices and activities in total. The actual program activities it would effect will depend solely on actual Commission workload during FY 1991.

Question

2. Considering the Commission's responsibilities under the 1988 Trade Act and other legislation, is this an adequate budget request for fiscal year 1991? Chairman Brunsdale, can we hear your own position on the adequacy of this request?

Answer

Yes. The Commission's FY 1991 budget request is adequate for the Commission to meet its statutory responsibilities

It is my personal belief that, in view of current caseload trends, our FY 1991 budget request of $42,430,000 could be reduced by approximately $900,000. When the Commission staff developed its FY 1991 budget in September 1989, it based its caseload projections for FY 1990 and FY 1991, in part, on the fact that our FY 1989 caseload had risen to 119 investigations from 92 in FY 1988. At the time, the staff projected that the caseload would continue to increase. During the first five months of FY 1990, however, only 20 investigations were instituted compared to 59 during the same period in FY 1989. As a result, the staff has lowered its projections. In my view, the Commission's FY 1991 budget request should be in the range of $41.5 million. Let me emphasize that this is my personal opinion and does not necessarily reflect the views of my fellow Commissioners.

Requested Travel Increase

Question

1. After requesting a reduction in your travel funds for fiscal year 1990, you are requesting an increase again in 1991. Could you explain the reason for the fluctuation in your travel requirements?

Answer

The Commission's budget request includes resources for travel based on anticipated workload requirements. Travel requirements change with the Commission's workload. During FY 1989, the Commission held 11 field hearings as part of a Section 332 study on the multilateral trade negotiations (Uruguay Round). In addition, the Commission conducted two studies of the European integration program (EC 92.) As a result, the Commission FY 1989 travel budget was higher than the planned FY 1990 travel budget. Travel funding was further reduced for FY 1990 due to reductions to the Commission's appropriation.

The Commission projects increases in travel costs in FY 1991 for three primary reasons. First, our investigations and studies are becoming more complex and require more staff travel. For example, in response to a program audit by the GAO, the Commission conducts on-site verification audits in every antidumping and countervailing duty investigation. Second, the studies now involve reviews of global markets, thus requiring more foreign travel. For example, the Commission recently completed a study on granting most-favored-nation status to the Soviet Union, and we are currently conducting studies involving the European Community, Mexico, and Japan. Third, the Commission's new program to improve its expertise on Japan will require some additional travel.

2. Will the amount of travel funds you received in 1990 be sufficient for the Commission's travel requirements in the current fiscal year?

Answer

Yes -- the FY 1990 travel funds are sufficient to meet the Commission's travel requirements for the current fiscal year.

Funds Returned to Treasury

Question

1. How much of your fiscal year 1989 appropriation was returned to the Treasury?

Answer

Of the $35,958,000 appropriated to the Commission for FY 1989, $220,000 was returned to the Treasury.

2. Can you make a prediction at this point on whether you will lapse funds in the current fiscal year -- particularly in light of the lower actual workload projections for new investigations?

Answer

Based on our current expenditure rate, we anticipate returning approximately $220,000, that is, the same amount as we returned at the end of FY 1989.

Workload

Question

2. Your statement indicates that the Commission has revised its total investigative workload projections for 1990 and 1991 downward. Will these revised projections have any impact on your fiscal year 1991 budget request?

Answer

No. The downward revision in our FY 1991 caseload estimate was small -- from 125 to 119. Moreover, it only involved one of the Commission statutory programs -- investigations under section 337 of the Tariff Act of 1930. Less than 10% of total Commission resources are allocated to support Section 337 activity. Therefore, the revised investigative caseload projections will not have a material effect on the Commission's FY 1991 budget request.

Question

3. How is the Commission's workload impacted by the current activity under the Uruguay Round of the GATT talks?

4. To what extent is your workload affected by other activities of the Office of the U.S. Trade Representative?

Answer

The Commission has been a principal contributor of staff time, expertise, and data for the tariff negotiations. The Commission currently has five employees on detail to the Office of the United States Trade Representative, two of them to provide technical assistance and support on the Uruguay Round negotiations in Geneva, and three providing technical assistance in Washington on negotiations, VRA's and consensus agreements, and trade studies.

There has been a substantial increase in the amount of technical support on antidumping negotiations, subsidies and countervailing duty measures, safeguards, intellectual property, and services issues, including attending meetings, drafting and commenting on proposals, analyzing proposals of other contracting parties, and preparing talking points and rebuttals.

As the Uruguay Round negotiations evolve and the alternative options are more clearly seen, we expect the U.S.Trade Representative to make requests for detailed reports and analyses on specific issues in the nontariff areas of the negotiations. Experience in the Tokyo Round and other past negotiations would indicate that such requests could involve a substantial staff commitment.

Commission staff provides the principal U.S. input for the various GATT trade data bases, such as the Tariff Study and the data base for the negotiations on adoption of the Harmonized System. The GATT contracting parties have agreed to build an integrated data base which could serve future GATT operations for many years to come. We expect a request from the USTR asking the Commission formally to take responsibility for providing the annual data required for the Integrated Data Base, and also to undertake certain responsibilities for maintaining the interagency data base that is kept on the computer at the National Institute of Health. These undertakings involve a substantial amount of resources.

The Commission provides a wide variety of assistance to the USTR in the form of direct staff details, assistance on Presidential Proclamations, assistance with multilateral and bilateral trade negotiations/agreements, modification of the GSP, and in the generation and maintenance of a variety of trade information. Further, the Commission provides extensive assistance through section 332 investigations, probable effects investigations, and requested trade monitoring work. Total Commission workload for FY 1989 related to the provision of assistance to USTR amounted to approximately 102 workyears and we project the same level of support in FY 1991.

Support to the U.S. Trade Representative

Question

3. Does your fiscal year 1991 request assume the same level of support for the Office of the Trade Representative as in 1990?

Answer

The Commission expects that requests for support from the Office of the United States Trade Representative will continue at the same level of previous years and that the Commission will provide the same level of support as in previous years.

Question

4. Does the Commission loan any staff to any other executive agency?

Answer

The Commission has one staff member, an economist, on a one-year reimbursable detail to the State Department. The State Department requested the detail to obtain assistance and expertise from the Commission for their Office of Regional Economic Policy of the Inter-American Affairs Bureau. When the staff member returns to the Commission, the additional expertise acquired at the State Department will contribute to the quality of the Commission's recurring report, Annual Report on the Impact of the Caribbean Basin Economic Recovery Act (CBERA) on U.S. Industries and Consumers required by section 215 (a) of the Act.

Office of the Inspector General

Question

1. The Commission's Office of Inspector General was established early last year, and the position of Inspector General has been filled for less than a year. What has been the workload thus far for the office?

Answer

The Office of Inspector General was formally established February 2, 1989 and began operation on April 17, 1989. As provided by statute and Commission procedures, the IG is fully independent, reports directly to the Chairman, and is responsible for all audit and investigative activities.

To date, the IG has audited the Commission's compliance with the Federal Managers Financial Integrity Act of 1982, reviewed the Commission's implementation of administrative protective order provisions for title VII investigations, and audited of the Commission's imprest funds. Ongoing and scheduled audits include a survey of statistical methods used to gather data, a review of verification of report data in title VII investigations, a review of personnel management functions and activities, a review of budget formulation and execution, a review of the Commission's information security program, and a review of controls in the development of section 332 reports.

2. Will that workload increase in fiscal year 1991, and will the projected workload require additional personnel?

Answer

We project that the workload for the Office of Inspector General will continue in FY 1991 at the same level as in FY 1990, and may require approximately the same level of resources (3 workyears) as in FY 1990. Currently, the Inspector General's office is staffed with two permanent work years and one temporary work year.

Harmonized System

Question

1. What is the status of international implementation of the Harmonized System?

Answer

The Harmonized System was implemented internationally on January 1, 1988. Approximately 70 countries, including the European Community, Canada, and Japan, are signatories to the Harmonized System Convention. The United States became a contracting party to the Convention on October 31, 1988 and implemented the Harmonized Tariff Schedule of the United States on January 1, 1989.

2. How has the United States' implementation of the Harmonized System and Tariff Schedule impacted the Commission's workload?

Answer

Since the enactment of the Trade Act of 1974, the Commission has played a lead role in the U.S. adoption of a Harmonized System-based schedule, and we continue to be involved, though at a reduced level. In addition to having the responsibilities for maintaining and publishing the Harmonized Tariff Schedules, Commission staff is active in the international work of the Harmonized System Committee, the Scientific Subcommittee, various working groups of the Customs Cooperation Council, and a new Review Subcommittee under the Harmonized System Committee. A Commission staff member was also elected to serve as Chairman of the Harmonized System Committee for 1990.

The 1988 Trade Act provided new Commission activities with respect to the Harmonized System, which include: recommending to the President modifications to the HTS to reflect (a) amendments to the HS Convention, (b) changes in technology or trade patterns, (c) elimination of unnecessary administrative detail, and (d) technical rectifications; reporting to the Congress on the first year of operation of the Harmonized Tariff Schedule; and reporting to the President on the effect of recent judicial decision on the Harmonized Tariff Schedule conversion.

Question

3. Your statement indicates that the 1988 Act authorizes the Commission to assess the U.S. Harmonized System after its first year of operation. Has that assessment begun? What resources do you anticipate will be required to complete the assessment, and are those resources included in your budget request?

Answer

The Commission instituted an investigation under section 332 of the Tariff Act of 1930 on March 14, 1989, to obtain public comments concerning the operation during 1989 of the Harmonized System. The report is due out by June 15, 1990. We anticipate that it will require approximately $100,000 of in-house resources to complete this study. This effort is included in our FY 1990 expenditure plan and not in our FY 1991 budget request.

QUESTIONS:

1. Why does ITC consider itself to be a single program agency when its budget recognizes six budget activities?

Answer

The International Trade Commission (ITC) receives one appropriation and considers itself to have one program with several interrelated activities, with the largest single activity consisting of trade-related investigations under the Tariff Act of 1930, the Trade Act of 1974, and the Trade Agreements Act of 1979. However, our budget is prepared showing several different functions to ensure responsible internal management of the ITC and to provide complete explanation and justification of ITC responsibilities to our oversight committees.

The ITC does not have control over the volume and timing of the bulk of its work-load; it must meet changing external demands and complete the work within statutory deadlines. By taking into account updated workload estimates, the Commission can redefine its priorities and ensure that these statutory responsibilities are carried out most effectively.

2. Is the ITC aware that it has been reprogramming funds between budget activities without notifying the Appropriation Committees as required by the General Provisions of the annual Appropriation Acts?

Answer

The ITC considers its overall activities to constitute a single program. Nonetheless, the Commission has, in the past, notified Congress in advance of any reorganizations affecting Commission Offices such as the establishment of the Office of Inspector General, Trade Remedy Assistance Office, and the Office of Information Resources Management.

WEDNESDAY, MARCH 21, 1990.

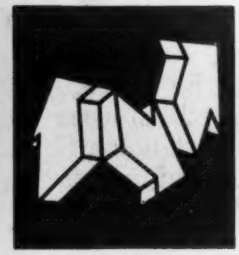
UNITED STATES SMALL BUSINESS ADMINISTRATION

WITNESSES

SUSAN ENGELEITER, ADMINISTRATOR
LAWRENCE R. ROSENBAUM, COMPTROLLER

Mr. SMITH. This afternoon, we have the Small Business Administration. The request is $326,437,000 for Salaries and Expenses, $9,864,000 for the Inspector General, $91 million for the Business Loan Investment Fund, $10,200,000 for the Surety Bond Guarantees Revolving Fund, $9 million for Pollution Control Equipment Contract Guarantees Revolving Fund, for a total of $446,501,000. The request is a reduction of $481,778,000 from the amount appropriated for 1990. That is a little bit misleading because there was $500 million for the disaster loan fund following the earthquake in California and Hurricane Hugo. We will insert the budget justifications submitted in support of this request into the record at this point.

[The justifications follow:]



SBA
BUDGET ESTIMATE
FISCAL YEAR 1991

U.S. Small Business Administration Office of the Comptroller

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SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
EXECUTIVE SUMMARY

Mission and Purpose:

The Small Business Administration (SBA) was established as an independent agency of the Federal government is 1953 to provide a concentrated focus of Federal programs and policies to the small business community of our Nation.

The policy of Congress relative to the SBA is summarized in 15 U.S.C. 631. "It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interest of small-business concerns in order to preserve free competitive enterprise,...and to maintain and strengthen the overall economy of our Nation."

In addition, the President has, on numerous occasions, expressed his strong support of the small business sector of our nation and his commitment to a viable and strong SBA. As he said recently in proclaiming Small Business Week, 1989, "Small businesses lead the way in developing new technologies and products and in creating opportunities for young and unskilled workers. They are a driving force behind our Nation's record economic expansion."

Agency Goals:

In order to address the commitment that President Bush has made to the small business community and to maximize the resources available to this Agency, we are in the process of implementing a management by objectives (MBO) planning system. This system includes the following Agency goals:

* Improve program delivery
* Improve outreach efforts
* Improve small business participation in International Trade
* Expand opportunities for Women-owned businesses
* Contribute to Rural Development
* Strengthen Minority Business
* Improve the Management and Administration of the Agency

To support these goals and objectives, we propose two distinct budgets. First, SBA's credit budget consists of our direct and guaranteed assistance programs. For FY 1991, we request that all direct business loans be converted to guaranteed loans with the exception of the Section 8(a) loan program. In the business guaranteed programs, we continue to support the consolidation of the Section 7(a) programs under general business. In addition, we request a substantial increase in funding for the new MESBIC guarantee program recently enacted as part of our FY 1990 appropriation. However, we request that the interest subsidy payment be appropriated separately from our direct loan levels. The request for business loans is, therefore, $5 million in direct lending, $12 million for the MESBIC subsidy (for $80 million in MESBIC guarantees), and $3,830 million in guaranteed lending.

In the surety bond program, we request an increase in guarantee authority to $1.5 billion in FY 1991. This increase is based on anticipated demand for the program, including increases in demand from small and minority contractors seeking bonds, and from the new preferred surety program.

In the disaster loan program, we request that the program be restructured to eliminate assistance to those individuals who can obtain credit elsewhere in the private markets. For those who cannot obtain credit assistance elsewhere, SBA will continue to provide the necessary financing at interest rates comparable to those paid by the Department of Treasury to borrow funds to finance the program.

The second major part of our budget is the salaries and general expenses of the SBA. These resources are necessary to cover all administrative and overhead costs of the Agency, as well as the direct financing of the non-credit programs of SBA, such as the SBDC program, SBI program, SCORE program, Section 7(j) program, and other technical and management assistance contract and grant programs.

Our request for salaries and expenses, including $19.4 million for disaster assistance and $9.9 million for the Office of Inspector General (OIG), is $336.3 million. The OIG request is now funded as a separate appropriation. This level will also fund our requested full-time equivalent staffing level of 4,202 for FY 1991, including 157 FTEs for the OIG.

In order to move toward actuarially sound programs and to offset default costs that SBA incurs, we propose to increase the guarantee fee on general business loans to 5 percent, and the guarantee fee on investment company loans to 5 percent. To provide an additional credit subsidy for minority owned small businesses, the guarantee fee on the new MESBIC guarantee program will only be increased to 3 percent. In addition, a fee of 6 basis points is proposed to insure against potential losses from the Federal guarantee on secondary market transactions. This fee will be charged to secondary market pool assemblers. In the non-credit programs, we propose to increase our charge for publications by a moderate amount, in order to offset increased costs from a planned increase in the volume of publications disseminated. We also plan to increase our fees for PASS program participants by a moderate amount protect the integrity of the database.

Credit Initiatives:

The Agency has experienced increased demand for its business guaranty programs over the past year. With the renewed commitment to the SBA on the part of the President, small businesses once again are looking toward the SBA to provide this much needed form of assistance. The requested guaranty program levels reflect anticipated credit demands of the small business community in FY 1991.

Our request for the Development Company lending programs (Section 502/503/504) is based on anticipated demand in FY 1991. During the past 9 years that the 503/504 program has been operational (FY 1981-89), over 500 Development Companies have been certified and over 10,000 loans have been approved with SBA financing totaling $2.2 billion. In addition to the SBA assistance, over $3.8 billion of private sector investment has been obtained for small business projects and 235,000 jobs have been created or retained. Increased emphasis will be made toward job creation. Our request in this area is for $450 million in guaranty authority.

In addition to increased demand for SBA credit programs, recent legislation has tremendously affected our credit programs through the addition of new programs, increases in the guaranty exposure of the SBA, and increases in the loan size. Our request reflects these changes and will enable the SBA to respond to these commitments.

In the surety bond program, we have requested a program level of $1.5 billion to address the anticipated demand that will result from the introduction of the preferred surety program and the mandatory guaranty percentages for socially or economically disadvantaged, and contracts valued under $100,000. This is an increase of $250 million over the current level. During the last decade this program has assisted small business through providing surety bonds for contract performance. The program is one of our most successful programs in terms of losses.

This budget proposes to continue the Section 8(a) direct loan program. This program was specifically authorized in P.L. 100-656. Its retention is consistent with our full support for the successful implementation of the 8(a) reforms.

Due to the extremely high cost of direct Federal financing and the labor intensiveness of direct lending program this budget request proposes to convert direct lending in the Handicapped Assistance, Veteran's, and Economic Opportunity loan programs to our general business guaranteed loans. The guaranty levels requested will be sufficient to cover the demand from these programs.

We fully support the FY 1990 restructuring of the investment company program and propose to retain separate funding for a MESBIC guaranteed program in FY 1991. Increased funding for this program is requested in FY 1991 to continue our emphasis on lending to minorities.

In the disaster loan program, we propose to limit assistance to only those victims who cannot obtain credit elsewhere. The deep subsidy in this program would be eliminated by increasing the interest rate on these loans by reflecting the cost of money to the U.S. Treasury. This activity provides financial assistance in the form of direct loans to not only small businesses but also homeowners and other businesses who have suffered financial or property loss as a result of a disaster. In addition, this activity has responsibility for the management of over 136,000 loans and $3 billion in loan assets.

The total request for credit programs, including disaster is $5,620 million. This amount represents the level of financial assistance that is necessary to meet the anticipated demand in the various lending programs. The demand in the 7(a) guaranty program is expected to be at a level of $800 million per quarter. The development company loans are re-established at their previous level of $450 million, and increased emphasis on the Minority Investment Company raises our request for all investment company assistance to $180 million. The Surety Bond request is established at $1.5 billion. The credit assistance for disaster loans is requested at $285 million.

Minority Business:

The SBA has, with the implementation of P.L. 100-656, renewed and increased its commitment to the minority and disadvantaged small business community. This will be accomplished not only through the traditional programs established in the Offices of Minority Small Business/Capital Ownership Development (MSB/COD) and Finance and Investment (F & I), but across all programs and activities of the SBA.

In the MSB/COD activity, we already have begun implementation of the provisions of P.L. 100-656. Additional resources are being committed to this initiative to fully realize the expected goals of the legislation.

In the F&I activity, we are implementing the new Section 8(a) loan program to assist those firms requiring this financial assistance. For FY 1991, we request $5 million of direct funding. In addition, with the introduction of the MESBIC guaranteed program in FY 1990 and our request for increased funding to $80 million in FY 1991, we will substantially increase the capital available to the minority business community.

In all other activities we are ensuring that minority and disadvantaged firms are always considered in the administration of our traditional programs. Wherever and whenever possible, special emphasis to these firms will be provided. In FY 1988, the SBA approved 2,200 loans to minorities valued at $380 million. In addition, traditional programs provided 46,000 counseling cases to minorities and provided training to almost 100,000 minority attendees. 7(j) firms provided counseling on a task-day basis to 4,450 firms. The 8(a) program awarded 4,261 contracts for over $3.2 billion.

Also, we have recently finalized the administrative arrangements with the General Services Administration and the Minority Business Commission to allow for the establishment of the Commission. We expect the Commission to begin to implement its mandates under P.L. 100-656 within the next few months. We are committed to fully supporting this initiative. For FY 1991, we request $865,000 to support the Commission.

Women's Business Owners:

Another primary goal and objective of the SBA is to increase its support of and service to the women-owned business population. This segment of the small business population, although representing some 30 percent of all small businesses, has been traditionally underrepresented in the traditional programs and activities of the Federal government. We plan to change this past practice by increasing our outreach to these businesses. We plan to do this not only through the traditional programs of the Office of Women's Business Ownership (WBO), but by also using the programs and resources available to us in all of our activities. In FY 1988, the SBA approved over 2,000 loans for almost $300 million to women-owned businesses. In addition, traditional programs provided counseling to over 81,000 women and training to over 230,000 women.

We have begun the processes necessary to establish the Women's Business Council, authorized in P.L. 100-533. We are fully committed to supporting this Council and its mandates under that Act. Our request includes $500,000 to continue funding of this initiative in FY 1991. In addition, we are implementing the new demonstration grant program, also authorized under P.L. 100-533. Resources for the full support and implementation of the requirements of the Act are included in our request, including $5 million for the demonstration grant program.

In all of our other activities, we are, whenever possible, increasing the exposure of our programs to women-owned businesses and providing special emphasis to these clientele.

International Trade:

In FY 1991, we plan to continue our emphasis and support of exporting by small businesses. In FY 1988, the SBA conducted 10 regional conferences and 600 satellite conferences. During the year approximately 1,000 informational packages were sent out and 30,000 copies of the Exporters Guide to Federal Resources for Small Business were distributed. We had a very progressive year in FY 1989, exposing the Agency's programs to the small business community to promote exporting. This was primarily done through the Agency's first nationwide video teleconference that had 1,500 participants. In addition, two trade conferences during FY 1989 attracted 2,000 participants, and over 50,000 copies of the Export Guide were distributed. This trend will continue in FY 1990 and FY 1991. We feel that this area is very important to the future success and vitality of the small business community. It is also very important to ensure the proper trade balance for the U.S. economy. The small business sector can make significant contributions in this area, as they do in all other aspects of the U.S. economy.

The Omnibus Trade Bill, passed in 1988, significantly expands the SBA's role in the international trade area. Our goal is for the SBA to fully respond to this legislation through increased outreach and involvement of the small business community in our training and informational seminars and our financial assistance programs. We are requesting an additional $300,000 to raise our outreach level to $800,000 in FY 1991 to allow for our expanded support of this initiative.

Rural Development:

In FY 1991, emphasis will be placed on bringing improved services to rural areas, particularly those areas having economic problems.

Acting on information provided through a series of field hearings and community roundlets held in FY 1989, programs that support greater dissemination of information on services already available to small business from government and private sources will be undertaken.

An active role of assisting other Federal agencies, state government and local communities in coordinating information on small business incubators will also be implemented.

To improve access to information on small business assistance programs and educational materials, the Agency will implement a clearinghouse for rural areas; and provide, through private sector assistance, an information center for rural areas using computer and fax capabilities.

To improve the availability of educational information in small business management, the Agency, with the assistance of the private sector, plans to create a video library of 17 tapes that would be made available to approximately 1,000 SBA rural resource centers to provide service to approximately 150,000 small businesses.

The mobile assistance center which has been piloted in Tennessee and will shortly be expanded to North Dakota, will be expanded into other areas as funds become available through appropriations and/or private sector contributions. These mobile vans access the rural areas to provide the services that are normally provided to the more populated areas of the U.S.

Veterans:

During FY 1991, the Office of Veterans Affairs (OVA) will continue its efforts to provide a comprehensive outreach program to America's veteran community and veteran owned small businesses throughout the country. Through our special emphasis training and conferences we anticipate reaching 35,000 veterans and will provide them with pre-business workshops, marketing and finance training, and interactive computer training. In addition special emphasis will be provided towards long-term in-depth entrepreneurial training. This training will be offered to approximately 400 highly qualified veterans.

During FY 1989, our ten Regional Offices held 754 Veterans Conferences. In FY 1989, we also counseled 13,711 veterans and trained approximately 47,000 veterans.

The Office of Veterans Affairs estimates that approximately 10,000 veterans will be counseled in FY 1991 by veterans affairs offices throughout the nation. These outreach efforts are in addition to the general SBA management and technical assistance training and counseling activities that are also available to veterans.

In an effort to reach veterans returning to civilian life, OVA has a goal of providing the necessary training for personnel processing out of military service. This training will be conducted at all major military installations involved in this processing function.

Small Business Development Centers (SBDC's):

The Small Business Development Center program currently reaches 47 states and has 54 operating centers and approximately 600 subcenters. It is expected that all 50 states will be participating in the program this fiscal year. This resource is designed to assist small businesses through linking Federal, state, local government and the private sector in providing management and technical assistance to the small business community.

These SBDC's in FY 1988 counseled over 128,000 cases and had 248,000 attendees at over 10,000 training sessions. Based on current statistics, it is anticipated that 141,000 counseling cases and almost 300,000 attendees were served through the SBDC's during FY 1989.

Because this program has been very successful in obtaining matching funds from the private sector far in excess of their requirement, we propose to reduce the Federal funding for the program to $30 million in FY 1991. This level will be phased down to $15 million in FY 1992 and the program is expected to be fully financed from private funds by FY 1993.

Procurement Assistance:

This activity serves to assure that small businesses receive a fair share of the government procurement and sales. This is done through the on-site location of procurements representatives at major government procurement installations and the continual monitoring of government procurement and sales activity. This activity manages a Procurement Automated Source System (PASS) that contains the productive capabilities of small firms for use by procurement officials. In addition, this activity is responsible for the issuance of Certificates of Competency (COC) to document a firm's ability to perform certain functions under government contracts.

The Procurement Assistance activity estimates that savings in Federal procurements of over $230 million can be provided through the Prime Contracts program and the COC program.

The Prime Contract program will monitor and manage the Traditional Procurement Center Representatives and Breakout Programs to increase the $19.7 billion (FY 1988) in small business set-asides to at least $20.9 billion. The breakout program projects $198 million in savings to the government as a result of breakout activity. The surveillance program will provide in-depth reviews of major acquisition activities to assist the small business activity. Breakout locations will be reviewed to assess operational problems associated with the implementation of Public Law 98-577.

The issuance of COC means a responsible small business who is the low offeror on a procurement will be awarded the contract that would have otherwise gone to a higher offeror. Total savings in FY 1988 were $36.3 million, that amount representing the difference to the government between the offer of the COC contractor and the next low offeror.

In addition, through our Natural Resource Sales Assistance program, during FY 1989, small businesses were awarded over 2,700 individual Federal timber sales, representing approximately $4.0 billion board feet of sawtimber at a return to the government of over $774 million. Small business awards represented 61% of total Federal sawtimber sold in FY 1989. The small business timber program assured the small business community its historical fair share of Federal timber through small business set asides.

Budgetary Initiatives:

This budget request for FY 1991 proposes the following initiatives:

Guaranty Fees:

In FY 1991, we propose to increase the guarantee fee on our General Business guarantee loans from the current 2 percent to 5 percent. This increase is expected to generate an additional $96 million in revenues to the fund. Additionally, the fee will help move this program toward actuarial soundness by offsetting default costs SBA incurs in this program.

We also propose to increase the guarantee fee on investment company debentures from the current 1.2 percent to 5 percent and on the MESBIC guarantee debentures from the current 1.2 percent to 3 percent.

The SBA guarantee on secondary market transactions exposes the Federal government to potential losses. To insure against this contingent liability, we are proposing a fee of 6 basis points, to be charged to pool assemblers and passed through to SBA by the fiscal transfer agent.

User Fees:

In FY 1991, we plan to increase our nominal charge for all publications distributed by SBA, to help offset the costs of a planned increase in dissemination. We expect these increases to generate $500,000 in revenues.

In the PASS program, we plan to increase the application and user charges which we expect will provide $500,000 in revenues in FY 1991.

Consolidation of Pollution Control Fund:

The Congress eliminated the pollution control bond program in FY 1989 and established a guarantee program under our regular business guarantee programs. Because a separate fund for the administration of the program is no longer necessary, we request that all future claim payments be made out of the business loan fund. This will simplify our accounting and reporting requirements for a program with minimal activity.

Management Initiatives:

In addition to the budgetary initiatives included in our request, there are several management initiatives included. They are as follows:

Central Office Relocation:

On March 15, 1991, the lease for the headquarters building for the SBA will expire. In anticipation of this, the SBA has worked with the General Services Administration (GSA) to relocate to a new site in the Washington, DC area. This relocation will allow for the movement of all personnel in the headquarters building, as well as the consolidation of five satellite offices into the new building.

The relocation is anticipated to begin about October 1990, and continue through March 1991. During this transition, multiple offices will be occupied. Therefore, our request provides for this "dual" rent during this period. This cost, plus the other costs associated with the relocation are estimated at $4,189,000, and included in our request.

Mainframe Computer:

The SBA's mainframe computer is very old and outdated, and no longer serves the needs of the Agency. To accomplish a replacement of this hardware, the SBA proposes to obtain computer services through either a commercial contract or a cross-servicing agreement. A Request for Proposal (RFP) has been developed to solicit competitive bids for these services. Our FY 1991 budget request includes $3,500,000 to fund this initiative.

Employee Training:

In FY 1991, we plan to continue the intense and concentrated training of our employees in the major program areas to improve the delivery of our programs and to instill a consistency in this delivery. This will improve overall productivity, program performance, and program quality.

Cross-Servicing Initiatives:

- In FY 1990, we began a cross-servicing arrangement with the National Finance Center for the personnel and payroll systems of the SBA. These systems were previously separate at SBA. Payroll was conducted by SBA staff and resources. The personnel system was cross-serviced through the Department of Treasury and the Defense Mapping Agency. This integration of systems will have increased benefit to the Agency through reduced overlap of processes, increased updating of similar data elements, and better coordination of these processes. This cross-servicing arrangement is anticipated to be continued in FY 1991. $700,000 has been included in the Personnel activity to support this initiative.

- The current administrative accounting system of SBA is antiquated, and no longer meets Agency requirements for budgetary control or integration of system components, and is not in compliance with OMB Circular A-127 objectives. To respond to these needs, the SBA had conducted extensive research and study of alternatives and alternate systems. In FY 1990, we entered into a cross-servicing agreement with the Department of Treasury's Financial Management Service for the use of an off-the-shelf financial accounting package. We expect the new system to be fully operational on October 1, 1991.

Management and Administration:

The SBA administers many programs and services for the benefit of the small business community. These programs and services require the overall coordination and support of strong management and administrative teams at SBA. We have developed such teams and have emphasized their inherent mission to provide the full level of support necessary to the SBA offices to allow implementation and execution of the important programs and services of the SBA.

In the area of management, we are insisting on coordinated, consistent delivery of programs. We expect all personnel involved in the delivery of programs to be fully knowledgeable in not only their respective program area, but also have a general appreciation and understanding of all of the programs of SBA. This is vitally important because of the complementary nature of SBA's programs, i.e, financial, management, and procurement assistance. All managers are fully aware of the primary goals and objectives of SBA for the coming year, and will be evaluated in terms of their support and realization of these goals and objectives. Managers are becoming increasingly accountable for the successes or failures of their programs, and must continually refine and improve their program delivery and increase successes to compete for scarce Agency resources. To monitor this performance, we are reviewing all programs and delivery mechanisms to ensure compliance with S.O.P.'s, maximization of resource utilization, and compliance with Administration and congressional intent of the programs.

The SBA will increase the integrity of its financial and other systems, as well as its general program integrity through increased emphasis on the provisions of OMB Circulars A-123, A-127 and A-130. Additional resources in the Office of Inspector General will assist in these efforts through more expeditious and frequent audits of programs and program participants and recipients. Also, SBA is in the process of certifying each of its major financial systems to be in compliance with the aforementioned Circulars. These effort will result in more responsible administration and accountability of programs and financial information.

In the area of administration, we are continually evaluating our programs and services to improve delivery, reduce duplication, reduce paperwork, and simplify processes. We are conducting a full review of all Agency Standard Operating Procedures for completeness, applicability, and inclusion of legislative requirements. We are developing customized training classes for specific segments of our operation to improve and instill a level of consistency in the delivery of programs, and to inform employees of recent legislative changes to their respective programs. We are installing integrated office automation systems to standardize our processes and provide the ability to utilize off-the-shelf financial and other analytical tools to improve decision making, program performance and management reporting. We are negotiating cross-servicing arrangements with other Federal departments and agencies to take advantages of economies of scale in areas such as payroll, personnel, and administrative accounting. We are improving the physical work environment through the introduction of ergonomic furniture and improved work space. We are constantly looking at improving the administrative response to the SBA program personnel in areas such as personnel recruitment, training and development, procurement of goods and services, accounting, systems design, and information management.

Through the introduction of administrative controls and oversight of areas such as credit reports and postage, the SBA has realized savings in excess of $2 million annually. We will continue these initiatives and expand them in FY 1990 and FY 1991 to include all vulnerable areas within the organization.

Personnel Resources:

For FY 1991, we have requested a full-time equivalent ceiling of 4,202 (157 for Inspector General). This level represents the personnel resources necessary to fully implement the goals and objectives of this Administration relative to the small business community and to fully implement the legislative mandates enacted by Congress. Included in this level is a reduction of 50 FTE's for Agency A-76 contracting-out initiatives.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
GENERAL STATEMENT

Salaries and Expenses

This submission requests $326,437,000 in budget authority for the regular salaries and expenses of the agency and $9,864,000 in budget authority for the Office of Inspector General. Outlays associated with this submission are $329,609,000 for the regular salaries and expenses and $9,227,000 for the Office of Inspector General.

"User fees" of $1,000,000 are proposed and included for two of SBA's activities. The receipt of these monies in conjunction with the establishment of a "proprietary" account may be used to help offset the Federal cost of providing services.

Full-Time Equivalent Positions

This submission requests a Full-Time Equivalent (FTE) ceiling of 4,202 for FY 1991. This is an increase of 61 FTE's over our adjusted FY 1990 level. In addition, 569 FTE's are requested for the disaster assistance and our disadvantaged youth and summer employment categories.

Business Loan and Investment Fund

This submission requests $3,000,000 for budget authority including the transfer of the pollution control equipment contract guarantee revolving fund into the business fund. This proposal is included under the transmittal "2" schedule in this budget. The business fund itself requires no new authority in FY 1991. Receipts from proposed guarantee fees, and the use of unobligated balances will satisfy the requirements of this fund. The new guarantee fees that require legislation in FY 1991 are also included under the transmittal "2" schedule.

Outlays associated with this submission are ($38,000,000). This is made of $12,200,000 for outlays from the pollution control activities, $89,800,000 regular business loan activities and ($140,000,000) from activities conducted on behalf of SBA by the Federal Financing Bank (FFB).

This submission includes the proposal of $102,000,000 in additional revenues from new guarantee fees. These amounts are included in the budget authority and outlay requests. In addition, this submission includes the proposal to convert all direct business loans except Section 8(a) loans, to guaranteed loans.

Disaster Loan Fund

This submission requests no new budget authority for this fund in FY 1991. Receipts from operations, and the use of unobligated balances will fully satisfy and fund requirements in FY 1991. Outlays associated with the submission are ($30,000,000).

This submission restricts disaster assistance in FY 1991 to borrowers who "cannot obtain credit elsewhere", and increases the interest rate to a market rate.

Surety Bond Guarantees Fund

This submission requests new budget authority of $10,200,000 in FY 1991. Outlays associated with this request are estimated at $9,500,000.

New surety bonds to be guaranteed in FY 1991 are requested at a level of $1,500,000,000. This increased program level is being requested in order to accommodate anticipated increased minority demand and the preferred surety program.

Pollution Control Guaranteed Fund

This fund is proposed to be transferred to the Business Loan Fund in FY 1991. Therefore, the request for $9,000,000 in the new budget authority and the associated $13,100,000 in outlays are reflected under that fund. This proposal is included under a transmittal "2"schedule in this budget.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
LEGISLATIVE PROPOSALS

This budget submission includes a number of proposals and initiatives that will require legislation prior to enactment by the Administration. In addition, there are other non-budgetary legislative initiatives that the Small Business Administration wishes to propose for FY 1991. A legislative package will be prepared in accordance with the provisions of revised OMB Circular A-19, and submitted to OMB for clearance. This package will include both budgetary and non-budgetary initiatives.

A highlight of some of these initiative as follows:

- Increase the guarantee fee on Section 7(a) business loans from 2 to 5 percent.
- Substitution of guarantee loans for direct loans in all business program areas except Section 8(a) direct loans.
- Establish SBA's interest payment to Treasury based on the Treasury's cost of money.
- Restrict disaster loans to borrowers who "cannot obtain credit elsewhere."
- Increase the interest rate on disaster loans to the Treasury's cost of money.
- Consolidate the pollution control fund into the business loan fund.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUDGET AUTHORITY AND OUTLAYS
($ IN THOUSANDS)

	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request	FY 1992 Request	FY 1993 Request	FY 1994 Request
Budget Authority:						
Salaries and Expenses	$228,490	$344,539	$326,437	$315,754	$309,825	$318,857
Inspector General	1/	7,400	9,864	10,174	10,415	10,659
Business Loans (Inc. FFB)	168,590	159,500	3,000	133,000	168,000	195,000
Disaster Loans	-	392,840	-	-	-	-
Surety Bonds	9,497	11,000	10,200	12,500	15,200	17,700
Pollution Control	13,656	13,000	0	0	0	0
Agencywide	$420,233	$928,279	$349,501	$471,428	$503,440	$542,216
Outlays:						
Salaries and Expenses	$312,713	$341,857	$329,609	$316,822	$310,418	$317,954
Inspector General	1/	7,030	9,227	10,158	10,403	10,646
Business Loans	68,595	25,000	(38,000)	2,000	50,000	87,000
Disaster Loans	(307,220)	658,000	(30,000)	(229,000)	(179,000)	(142,000)
Surety Bonds	1,506	9,900	9,500	12,300	15,500	17,600
Pollution Control	8,710	14,000	0	0	0	0
Agencywide	$84,304	$1,055,787	$280,336	$112,280	$207,321	$291,200

1/ Included in the amount for salaries and expenses

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PROGRAM LEVELS
($ IN MILLIONS)

	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
General Business	$2,617.9	$3,161.4	$3,200.0
Direct	-	-	-
Guaranteed	2,617.9	3,161.4	3,200.0
Handicapped	13.2	12.0	-
Direct	12.0	12.0	-
Guaranteed	1.2	1/	1/
Econ. Opportunity	50.9	17.0	-
Direct	16.9	17.0	-
Guaranteed	34.0	1/	1/
Energy	-	-	-
Guaranteed	-	1/	1/
Veterans	17.0	17.0	-
Direct	17.0	17.0	-
Development Co.	364.2	472.2	450.0
Guaranteed	364.2	472.2	450.0
Investment Co.	50.2	246.0	100.0
Guaranteed	50.2	246.0	100.0
Minority Inv. Co.	36.0	80.4	80.0
Direct	36.0	31.0	-
Guaranteed	-	49.4	80.0
8(a) Loans	.9	5.0	5.0
Direct	.9	5.0	5.0
Guaranteed	-	-	-
Total Business	$3,150.3	$4,011.0	$3,835.0
Direct	82.8	82.0	5.0
Guaranteed	3,067.5	3,929.0	3,830.0
Disaster Loans:	146.7	1,813.5	285.0 2/
Surety Bond Gtys.	1,151.6	1,250.0	1,500.0
Total Agency Credit	$4,448.6	$7,074.5	$5,620.0
Direct	229.5	1,895.5	290.0
Guaranteed	4,219.1	5,179.0	5,330.0

1/ These programs were consolidated into the General Business guaranty program.

2/ This program would be restricted to borrowers who "cannot obtain credit elsewhere" and based on the Treasury cost of money.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PROGRAM LEVELS-CONTINUED
($ IN MILLIONS)

	FY 1989 Actual	FY 1990 Approp. 1/	FY 1991 Request
Other Programs:			
PASS	$ .9	$ 1.2	$ 1.4
SBDC	44.9	49.3	30.0
SBI	2.5	2.5	2.5
SCORE	2.4	2.5	2.5
7(j)	8.1	8.7	8.7
Research & Database	1.6	1.7	1.7
Veteran's Outreach	.3	.5	.5
Women's Technical Assist.	2.4	2.0	5.0
Inter. Trade Outreach	.3	.5	.8
FTE-Regular	3,872.9	4,011.8	4,044.8
FTE-Inspector General	133.4	129.2	157.2
FTE-Disaster	518.3	1,000.0	550.0

1/ Reflects adjustments for sequestration.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES BY ACTIVITY
($ in thousands)

	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Finance and Investment	$ 52,071	$51,936	$57,628	$ 59,227
Procurement Assistance	15,659	16,815	17,371	18,549
Minority Small Business/COD	22,988	23,920	26,581	27,534
Innovation, Research, & Tech.	879	854	1,226	1,240
Advocacy	6,043	5,769	5,309	5,433
Special Programs	63,231	72,018	79,424	61,509
Business Development	20,121	20,420	22,120	20,508
Women's Business Ownership	358	2,825	3,272	6,371
Veteran's Affairs	1,114	1,061	1,239	1,257
Private Sector Initiatives	320	255	344	351
International Trade	942	1,378	2,115	1,999
National Advisory Council	261	238	265	270
Small Business Development Company	40,115	45,841	50,069	30,753
Management & Administration	65,279	68,205	75,658	82,165
Equal Employ. Oppor. & Comp.	1,935	2,186	2,162	2,210
Comptroller	7,236	7,074	7,708	7,876
Administration	36,208	38,443	44,850	47,100
Personnel	3,784	5,006	4,640	5,015
Program Analysis & Review	1,964	1,622	1,872	1,905
Information Resources Management	14,152	13,874	14,426	18,039
General Counsel	14,973	15,660	15,605	16,288
Hearings and Appeals	940	852	996	1,030
Public Communications	1,197	1,531	1,239	1,261
Cong. & Legis. Affairs	468	556	554	566
Exec. Dir. & Field Admin.	35,587	38,250	33,345	33,298
Subtotal	$279,315	$296,366	$314,936	308,080
Inspector General	6,999	7,392	7,400	9,864
Subtotal	286,314	303,758	322,336	317,944
Disaster Assistance	25,734	19,271	29,603	19,357
Total	$312,048	$323,029	$351,939	$337,301

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES BY OBJECT CLASS
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$128,181	$129,699	$135,211	$137,251	$148,805	$152,246
Benefits	17,040	18,907	22,275	24,148	23,813	24,363
Travel	5,327	6,041	5,667	6,343	6,327	6,327
Transportation	250	232	220	382	300	700
Rents & Comm.	35,425	32,873	34,359	34,872	44,807	44,187
Printing	1,564	1,374	1,588	1,369	1,485	1,485
Other Services	19,475	22,750	23,038	23,824	26,708	33,679
Supplies	1,641	1,693	2,057	2,681	1,752	1,752
Equipment	2,135	7,929	7,020	10,026	1,982	3,722
Grants	36,672	40,223	47,880	55,470	58,957	39,619
SubTotal	$247,710	$261,721	$279,315	$296,366	$314,936	$308,080
Inspector General	5,762	6,492	6,999	7,392	7,400	9,864
Disaster Assistance	30,106	26,799	25,734	19,271	29,603	19,357
Total	$283,578	$295,012	$312,048	$323,029	$351,939	$337,301
FTE-Regular	3,934.4	3,922.8	3,975.5	3,872.9	4,011.8	4,044.8
FTE-Inspector General	119.9	125.4	129.8	133.4	129.2	157.2
FTE-Disaster	923.9	757.4	643.3	518.3	1,000.0	550.0
FTE-Undistributed	-	-	-	-	-	-

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES (EXCLUDING INSPECTOR GENERAL)
RECONCILIATION OF 1991 ESTIMATE TO AMOUNTS FOR 1990
($ In Thousands)

		Financing	Obligations
1990	Appropriation currently available..................	$242,000	
	Portion not available pursuant to P.L. 99-177.......	(4,621)	
	Transferred from Disaster Loan Fund................	107,160	
	Total..	$344,539	
Adjustments to base and built-in changes:			
	FY 1991 3.5% pay raise (50%)........................		+1,663
	Reduction in Positions (A-76).......................		-1,500
	Additional positions and annualization of existing positions................................		+1,296
	Annualization of FY 1990 3.6% pay raise............		+1,470
	Extra Day..		+512
	Benefits (related to above)........................		+606
	Employees Compensation Fund........................		-56
	Increase for Other Rentals.........................		+60
	Reduction in FTS...................................		-2,079
	Subtotal, adjustments to base and built-in changes		+1,972
	1991 Base..		$346,511
Program Changes:			
	Small Business Development Centers.................		-19,338
	Increase for new computer..........................		+3,500
	Increase for Agency move...........................		+4,189
	Elimination of Rural Development...................		-1,973
	Miscellaneous Studies..............................		+1,000
	Increase to PASS program...........................		+264
	Increase Trade Shows/Outreach......................		+307
	Increase for Women's Outreach......................		+3,033
	Elimination of East-West Center....................		-493
	Increase for NFC cross-servicing...................		+311
	Minority Business Commission.......................		+372
	Disaster Loan Making Activities....................		-10,246
	Subtotal, program changes..........................		-19,074
	Planned Program 1991...............................		$327,437

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
FULL-TIME EQUIVALENTS BY ACTIVITY

	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Finance and Investment	1,310.7	1,254.4	1,361.2	1,370.2
Procurement Assistance	296.0	297.1	308.6	338.6
Minority Small Business/CCD	345.9	344.6	391.3	401.3
Innovation, Research, & Tech.	9.6	9.3	10.4	10.4
Advocacy	71.7	67.5	66.5	68.5
Special Programs	400.4	403.0	387.2	395.2
Business Development	341.3	339.9	324.9	324.9
Women's Business Ownership	8.0	7.8	9.2	14.2
Veteran's Affairs	13.8	14.7	15.4	15.4
Private Sector Initiatives	5.9	4.6	4.6	4.6
International Trade	17.3	21.7	18.6	21.6
National Advisory Council	4.3	4.2	4.5	4.5
Small Business Development Company	9.8	10.1	10.0	10.0
Management & Administration	445.3	434.5	444.6	449.6
Equal Employ. Oppor. & Comp.	39.5	40.5	38.1	38.1
Comptroller	161.6	156.1	165.3	166.3
Administration	77.1	73.5	73.4	77.4
Personnel	53.8	54.1	58.9	58.9
Program Analysis & Review	22.2	21.8	22.7	22.7
Information Resources Management	91.1	88.5	86.2	86.2
General Counsel	327.3	326.0	319.5	337.5
Hearings and Appeals	16.6	16.5	16.3	17.3
Public Communications	18.1	18.9	19.1	19.1
Cong. & Legis. Affairs	9.0	9.5	10.7	10.7
Exec. Dir.. & Field Admin.	724.9	691.6	676.4	626.4
Subtotal Regular Activities	3,975.5	3,872.9	4,011.8	4,044.8
Inspector General	129.8	133.4	129.2	157.2
Undistributed	-	-	-	-
Subtotal	4,105.3	4,006.3	4,141.0	4,202.0
Disaster Assistance	643.3	518.3	1,000.0	550.0
Dis. Youth & Summer	19.0	18.0	19.0	19.0
Total	4,767.6	4,542.6	5,160.0	4,771.0

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
GUARANTY FEE PROPOSAL

This budget submission proposes to increase the guaranty fee on General Business loans from the current authorized cap of 2 percent to 5 percent, effective October 1, 1990. The current 2 percent cap is set by statute in the Small Business Act, Section 7(a)(16). Therefore, this proposal would require legislation prior to enactment.

This increase will help offset a portion of the cost of providing the financial assistance and is part of a government-wide initiative of transferring the cost of Federal programs from the general taxpayer to the direct recipient of the programs. This increase is part of a longer-range plan of increasing the fee, eventually lending to the program's self-sufficiency.

Also proposed is to increase the guaranty fee on SBIC approvals from the current 1.185 percent to 5 percent. This proposal serves two policy objectives of the Administration. First, it would provide additional funds to offset the costs of administering the program, and funds to offset SBA's losses on SBIC debentures. Second, it would require that the parties receiving the benefits of the SBIC program pay a more realistic fee for those benefits.

We propose to increase the fee on the Minority Investment Company loan program from the current 1.185 percent to 3 percent. This increase is part of the initiative to offset program costs and eventually move this program to self sufficiency. The proposed fee increase is lower than in the regular SBIC program to provide an extra subsidy to minority-owned businesses.

The increased fees would generate approximately $102 million in additional revenues to the Business Loan and Investment Fund annually, based on FY 1991 requested levels.

HISTORICAL INFORMATION

Program	Current Fee	Proposed Fee
General Business	2%	5%
Investment Company	1.2%	5%
Minority Investment Company	1.2%	3%

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
ANALYSIS OF CENTRAL OFFICE MOVE IN FY 1991

The current lease for the Small Business Administration headquarters building at 1441 L St., N.W. will expire on March 15, 1991. Therefore, the SBA has worked with the General Services Administration (GSA) to acquire new building space prior to this date. The new space will not only house existing personnel from the headquarters building, but allow for the consolidation of five satellite locations in the Washington, DC area.

The total cost of the move is projected to be $4,189,000. This amount is included in our FY 1991 adjusted baseline and requested under the Administration activity. This amount does not include any funds for the construction of a new computer room. That item has been negotiated with the builder to be included in the original construction of the building and will be included in the rent to be charged to SBA.

The following are the detail items that total the $4,189,000 request for the move.

Transportation - $400,000

- To move the regular and modular workstations of the employees.
- To move all computer equipment, copiers, fax machines etc.

Rents and Communications -$1,399,000

- Estimate of the increase in space costs resulting from the occupation of multiple buildings during the transition phase to the new building. This "dual" occupancy can not be avoided and will ensure a smooth transition to the new building.

Other Services - $650,000

- Amount needed to contract for extra guard service to cover the additional entrance at the new building ($150,000).
- Estimate of the cost of contingent remodeling of space to accommodate special needs of the various offices, i.e. move walls, install doors, etc. ($300,000).
- Estimate of all labor and electrical work to install wiring for computers and perform other necessary electrical modifications ($200,000).

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
ANALYSIS OF CENTRAL OFFICE MOVE IN FY 1991-CONTINUED

Equipment - $1,740,000

- Estimate provided by GSA planners to purchase the necessary wiring and connectors to accommodate the various items of computer equipment ($400,000).

- Estimate of the cost of a security system to be installed in the new building. Because the new building will have multiple tenants, monitors and an ID system will be required ($100,000).

- To complete the systems furniture acquisitions to meet the GSA standard of 135 square feet per person at the new building ($700,000).

- To complete the acquisition of new phone systems to be compatible with and take full advantage of the features of the FTS Sprint 2000 network ($540,000).

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
FINANCE AND INVESTMENT

HIGHLIGHT:

The Finance and Investment activity encompasses all financial and investment activities of the SBA. This includes Program Direction, Business Loans, Economic Development, Financial Institutions, Portfolio Management, Investment Assistance and Surety Guarantees.

OTHER INFORMATION:

The main function of Program Direction is the guidance, supervision, and policy planning for the Financial and Investment activities. This unit therefore includes:

1. The Associate Administrator for Finance and Investment and related immediate office, including program support personnel.
2. The Assistant Regional Administrators for Financial Assistance programs.
3. The Assistant District Directors responsible for Financial Assistance programs.

The Office of Business Loans (OBL) is responsible for overseeing the loan programs under Section 7(a) of the Small Business Act, except for development company loans which are in the Office of Economic Development. This includes the regular business loan program, loans to the handicapped, loans to low-income individuals or to business in areas of high unemployment (Economic Opportunity loans), energy loans, revolving lines of credit for exporters, loans to qualified employee trusts, and loans to small general contractors. These are the "main-line" loan programs of SBA and account for approximately 80% of the SBA appropriation for loan making. The purpose of these loans is to promote small business growth and development and to expand the total number of small businesses.

In addition, through legislation passed in FY 1989, these programs also include loans to replace the previous pollution control bond program, and a new mini-loan program for loans under $50,000.

The overwhelming majority of SBA loans are extended under the guaranty loan programs (approximately 98% of dollars loaned). The purpose of guaranteed lending is to utilize private-sector funds to assist small businesses that cannot otherwise obtain financing. With a reduced risk resulting from an SBA guaranty, financial institutions are often more willing to extend the needed financing, particularly long-term financing.

SBA guaranty loans assist small concerns in manufacturing, wholesaling, retailing or service industries that need financing to start or expand a business. Loan proceeds can be used for real estate, furniture and fixtures, machinery and equipment, working capital and for needed refinancing. SBA guaranty loans to a single business may extend up to a maximum of $750,000 in SBA exposure with maturities of up to 25 years. Direct loans are administratively limited to $150,000 and are presently available only to veterans, the handicapped, and to low-income individuals or to businesses located in areas of high unemployment. The exception to this is the new exporting loans that can go up to $1,250,000 and the pollution control loans that can go up to $1,000,000.

The Office of Economic Development promotes economic development and job creation or maintenance by stimulating the flow of long-term financing to small business concerns for projects that involve fixed assets. These projects are designed to create or retain a meaningful number of jobs in the communities affected, with a special emphasis on business development in rural areas. Programs included under this functional unit include: Local Development Company Program (Section 502) and the Certified Development Company Program (Section 504). The Section 501 State Development Company Program and Section 503 Certified Development Company Programs are no longer active.

One of the premises for the Certified Development Company (CDC) Program in the Office of Economic Development was to put greater reliance on the private sector. This initiative has allowed the Agency to leverage its limited resources by permitting qualified organizations to assume greater responsibility in the packaging, processing, closing and servicing of loans along with the offering of other management services.

The CDC functions as a resource center marshalling resources for small business development and thereby contributing to community economic development. This involves a variety of services such as packaging 7(a) business loans, administering a revolving loan fund, managing a small business incubator, functioning as a subcenter in the Small Business Development Center Program, and functioning as a procurement assistance center through a cooperative agreement with the Department of Defense.

During the 9 years the 503/504 program has been operational (FY 1981-89), over 500 Development Companies have been certified and over 10,000 loans have been approved with SBA financing totaling $2.2 billion. In addition to the SBA assistance, over $3.8 billion of private sector investment has been obtained for small business projects and 235,000 jobs created or retained. During the same period, about 100 loans totaling $25-$35 million (SBA share) were made each year under the 502 program.

The main function of the Office of Financial Institutions is to promote and oversee the Certified Lenders Program (CLP), and the Preferred Lenders Program (PLP).

The CLP and PLP programs are methods used to permit qualified lenders to assume greater authorities and responsibilities in processing, closing, servicing and liquidating loans, thereby providing more timely service to the lenders and borrowers and also reducing the workload of Agency personnel. However, these initiatives have increased our responsibility to monitor and evaluate these lenders and to provide them with guidance on SBA policies, procedures, expectations, etc.

The Office of Portfolio Management has the overall responsibility for all aspects of collection, servicing and liquidation for the agency loan portfolio totalling over 245,000 loans and $17.8 billion in gross dollars.

The major functions of the Office of Portfolio Management are:

* To foster the success of small business borrowers through effective, responsive, and reasonable portfolio policies, procedures, and practices.

* To increase productivity of limited human resources through improved computer systems; enhanced training techniques; and other available options, such as greater utilization of the services of participating lenders and contracting with private sector collection agencies and credit reporting companies.

* To continue to improve the public image of the Agency by the implementation of effective portfolio management and collection activities in our daily contact with borrowers, participants, and other agencies.

* To efficiently implement the debt reduction and credit management initiatives promulgated by OMB.

* To liquidate failed Small Business Investment Companies (SBIC) and other SBA borrowers, to maximize recoveries to the Federal Government, and minimize losses. This budget includes a request for 7 additional FTE's for these efforts.

The Office of Investment is responsible for providing long-term loan funds, equity capital and management advisory assistance to existing and newly-formed small business concerns through SBIC's and Section 301 (d) SBIC's. SBIC's are privately organized, capitalized and managed investment firms which are licensed, regulated and partially funded by the Federal Government (SBA). Thus, SBA has a vital partnership between the Federal Government and the private sector to provide such assistance to independent small concerns. Currently, there are approximately 410 operating SBIC's with private capital investment of $1.9 billion and government guaranteed funds of $1.2 billion, for total capital resources of $3.1 billion. During calendar year 1988, SBIC's provided approximately $750.9 million in financings to small concerns, of which 61.6 percent was to small concerns under three (3) years old. This office is also responsible for the implementation of the newly created minority investment guaranteed program. This program offers minority borrowers financial assistance at a subsidized interest rate for the first 5 years of the ten year debenture maturity.

The Office of Surety Guarantees (OSG) assists small contracting firms which cannot obtain the bid or contract surety bonds they need to perform work for which they are qualified. OSG provides this assistance by guaranteeing up to 90% of losses sustained by participating surety companies. SBA's bond guarantees provide the inducement necessary for the surety companies to issue bid or contract bonds for small contractors. During the last decade this program has assisted small business through providing surety bonds for contract bids and contract performance. With a loss rate of only 2%, this program boasts a 98% success rate that has resulted in a net savings after offsetting program losses estimated at $912.2 million to the government. In addition, this Office is responsible for the pilot implementation of the preferred surety program in FY 1990.

OBJECTIVES:

The primary objectives of Program Direction are:

* To provide guidance and direction for Financial and Investment (F&I) Assistance programs and to assure that each operating unit's overall objectives are achieved.

* As directed, to redirect personnel resources to the highest priority activities, to reevaluate the qualifications of current personnel, to establish retraining opportunities for persons to attain the qualifications needed in priority positions and to improve employee morale and productivity by providing new opportunities for individuals.

* To encourage the effective utilization of modern technology for data and word processing, in cooperation with other Agency offices.

* To continue to develop and administer a secondary market program which permits participating lenders to sell the guaranteed interest in a SBA loan to an investor.

A series of special projects have been initiated to further the best interests of the financial assistance programs. These are designed to make the programs more efficient, more effective, and more consistently administered and delivered. Examples of projects that have been accomplished, or are being worked on now, include the following:

- Loan Performance Measurement System (LPMS). This is dispensed semi-annually to the field personnel and tracks loan failure and charge-off rates by year of approval for each of our field office locations. LPMS is the basis for Central Office evaluation of loan processing performance.

- A series of training manuals are being developed based on actual SBA loan-making experience. This is to be used in conjunction with our centralized training program to promote consistency and quality in our loan program.

- A series of centralized training courses are being developed for loan processing personnel. OBL has requested courses to train every loan officer in the field for a minimum of one-week per year. This is necessary to cultivate the "corporate culture" needed to promote consistency and quality lending. These courses must be structured, coordinated with the development of training manuals and materials and directed to the appropriate field office personnel. This project is being developed in conjunction with the Office of Training within the Office of Personnel.

- A computerized system of credit analysis has been developed and is now being refined for use by SBA field offices in their processing of loan applications.

The major objectives in the Office of Portfolio Management include:

* To continue updating relevant SOPs.

* To continue developing automated collection, liquidation, and management-level reporting systems.

* To properly train field offices on the new SOPs and automated systems.

* To continue the reduction in the number of accounts in liquidation.

* To fully implement the Loan Liquidation Tracking System.

The primary objectives of the Office of Investment are:

* To administer the SBIC program in such a manner as to stimulate and supplement the flow of private capital investment into SBIC's for use in making equity capital and long term loan funds available to existing and newly-formed small business concerns for the sound financing of their business operations and for their growth, expansion and modernization.

* To provide information to the small business community concerning the role of SBIC's in the venture capital markets and to project a professional public image for the Agency in this program area.

* To more fully include minorities within the assistance programs available through this office.

The major objectives of the Office of Surety Guarantees are to improve the delivery and use of the Surety Bond Guarantee (SBG) program by:

* Increasing the knowledge of the program's salient aspects by small contractors, including minority contractors, government procurement officers, bond producers and others.

* Increasing the number of sureties and producers who participate in the program.

* Protecting funds appropriated for the program by improving, monitoring and controlling the underwriting examinations applied to cases submitted for the SBA bond guarantee.

* Continually modifying claims processing procedures to effectively analyze defaults, assess SBA's liability and efficiently review and pay claims to participating sureties.

* Improving and intensifying recovery procedures to maximize the recovery of SBA's share of contract and indemnity funds which are collected by the sureties.

FY 1991 INITIATIVES:

This budget includes several legislative proposals and new initiatives for the programs administered by the Finance and Investment activity of the SBA. The following are included as part of this budget submission:

1. Convert all Business Direct Loans except Section 8(a) Direct Loans to Guaranteed Loans

One of the recurring themes in the history of the SBA business loan program is the continuing and ever-increasing involvement of the private sector, in particular, the lending community. From the beginning of the Agency, private sector lenders were involved in the loan programs, although in the early years the emphasis was on direct and immediate participation loans in which the loan dollars came either entirely or mostly from the SBA. In 1954, the first year of operation, guaranteed loans accounted for only 48% of the $23.1 million in SBA loan dollars. This percentage quickly fell and ranged from 8 to 17 percent in the years from 1954 through 1965. Guaranteed loans suddenly jumped to 43% of total volume in 1966 and from 1972 through the present has varied between 92 and 98 percent of the total. In FY 1990, only $82 million is available for direct loans, compared to $3.9 billion for guaranty loans.

Under the proposed legislation all direct business loan authority, except Section 8(a) Direct Loans, would be converted to general business guaranteed loans. The Section 8(a) Direct Loan program was recently authorized in P.L. 100-656. The purpose of the program was to replace the previous Business Development Expense grant. The $5 million proposed for direct authority is our estimate of the anticipated demand for this type of assistance.

The conversion of all other business direct loans to guaranteed loans would have benefits both for the borrower and the taxpayer. For the borrower, the loan would be made through private-sector lenders. For small businesses, borrowing from a bank instead of from the SBA means they can develop a relationship and a track record with a private sector lender rather than with a government agency. One of the purposes of the SBA program is to foster the long term growth of individual small businesses. We can do this better by facilitating the relationship with a major private-sector institutional provider of credit to small business than by enabling small businesses to become dependent on financing from the government. Guaranteed loans also permit small businesses to borrow greater amounts of money: $750,000 (SBA Share) with a guaranteed loan versus $150,000 with a direct loan.

For the taxpayer, guaranteed loans are preferable to direct loans because they are less costly to the government. In providing direct loans, SBA acts as a lender of last resort to borrowers too risky for private lenders. A comparison of the loss rates of direct and guaranteed loans demonstrates that private sector participation in the loan process reduces Federal losses.

Also of interest to the taxpayer is the cost of administration. Direct loans are serviced by SBA, guaranteed loans by the lender. During the past several years, SBA has moved to turn over more of the responsibility and cost of program administration to the private sector through such programs as Certified and Preferred Lender, where experienced and active lenders assume more of the responsibility for making the credit decision. This approach bears added benefits for the loss rate as well, since such lenders tend to make better loans. In addition, lenders are assuming ever more of the responsibility for liquidation activity, further reducing operating costs to the government.

The history of the SBA business loan programs has been one of development from the small, simple direct loan program of the 1950's to the sophisticated public-private partnership of the 80's. Conversion of direct loan authority to guaranteed loan authority, with the exception of the Section 8(a), will permit SBA's limited resources to be focused on areas of highest payoff to small business.

2. Increase the Guarantee Fee on General Business 7(a) Loans to 5%.

This proposal will increase the current 2 percent guarantee fee to 5 percent, effective 10/1/90. This increase will help offset a portion of the cost of providing the financial assistance and is part of a government-wide initiative of transferring the cost of Federal programs from the general taxpayer to the direct recipient of the programs. This increase is part of a longer-range plan of increasing the fee, eventually lending to the program's self-sufficiency.

3. Increase the Guarantee Fee on SBIC Approvals to 5%.

The present guarantee fee by regulation is charged to recover, in part, the costs of processing, selling and servicing the SBIC debentures. This would change in that the fee henceforth would be charged to partially recover SBA's program administration costs, including the cost of defaults and liquidation, leading toward program self-sufficiency. The current fee is 1.185 percent.

This proposal serves two policy objectives of the Administration. First, it would provide additional funds to offset the costs of administering the program, and funds to offset SBA's losses on SBIC debentures. Second, it would require that the parties receiving the benefits of the SBIC program pay a more realistic fee for those benefits.

4. Increase the Guarantee Fee on MESBIC Loans to 3%.

This increase is part of the initiative to offset program costs and eventually move this program to self-sufficiency. The proposed fee increase is lower than in the regular SBIC program to provide an extra subsidy to minority-owned businesses. The current fee is 1.185 percent.

5. Amend Sections 7(b) and 7(c) of the Small Business Act to Restrict SBA's Authority to make Disaster Loans.

This proposal will restrict all disaster loans to those borrowers who "cannot obtain credit elsewhere" and increases the interest rate to the Treasury's cost of money.

6. Consolidation of Pollution Control Fund into the Business Loan Fund.

This proposal will modify the Small Business Investment Act to deauthorize a separate revolving fund for the pollution control. The consolidation of the pollution program would be prudent due to the program's lack of new activity and would be consistent with the transfer of the pollution financing to the business fund.

7. Increase the Surety Bond Program Level.

This request includes a surety bond program level of $1.5 billion in FY 1991 to accommodate anticipated demand and to address the additional requirement imposed due to the implementation of the preferred sureties program and the mandatory 90 percent guaranty for socially or economically disadvantaged contractors and contracts under $100,000.

8. To Establish a Secondary Market Fee on Guaranteed Loans Sold in the Secondary Market.

We would establish a fee (up to six basis points) to be charged to the loan poolers of SBA's guaranteed loans sold in the secondary market. These poolers are currently approved by SBA to package loans for sale in the secondary market. This process is very profitable to these poolers in that SBA's loans are very marketable in the secondary markets. This fee will help offset SBA's administrative costs in making its guaranteed loans.

9. Increase Efforts to Resolve the Backlog of SBIC Liquidations.

We are increasing our efforts in this area through the rewriting of our liquidation policies and procedures relative to SBIC's and through an increase in staff to handle these cases. This staff increase is reflected in our request for FY 1991.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
FINANCE AND INVESTMENT
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			1,361.2	$57,628
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +590		
Annualization of FY 1990 3.6% pay raise	-	+479		
Additional positions and annualization of existing positions................	+9.0	+120		
Extra day..............................	-	+181		
Benefits related to above..............	-	+229		
Subtotal, adjustments to base and built-in changes.........................			+9.0	+1,599
FY 1991 Base..............................			1,370.2	59,227
Program Changes:				
No changes				
FY 1991 Request			1,370.2	$59,227

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
FINANCE AND INVESTMENT
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $50,027,000. For 1,370.2 Full-Time Equivalent Positions.

12. Personnel Benefits - $7,380,000. $2,973,000 for direct contribution to FERS retirement funds; $4,072,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, CSRS retirement funds; and $335,000 for cost of living allowance for employees in covered locations.

21. Travel and Transportation of Persons - $1,144,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

22. Transportation of Things - $40,000 . For movement of household goods in connection with employee relocations.

24. Printing and Reproduction - $200,000. For printing and reproduction of loan forms, directives, and miscellaneous handbooks and guidelines.

25. Other Services - $339,000. $250,000 for Accounting, Policy and Portfolio contracts; $70,000 for training; and $19,000 for miscellaneous contractual services.

26. Supplies and Materials - $58,000. For office supplies and materials.

31. Equipment - $39,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
FINANCE AND INVESTMENT
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$43,789	$43,504	$43,631	$43,063	$48,657	$50,027
Benefits	5,278	5,749	6,582	7,009	7,151	7,380
Travel	529	610	555	482	1,144	1,144
Transportation	14	25	28	-	40	40
Rents & Comm.	-	-	-	1	-	-
Printing	290	146	70	41	200	200
Other Services	92	68	509	178	339	339
Supplies	27	19	22	35	58	58
Equipment	38	237	674	1,127	39	39
Total	$50,057	$50,358	$52,071	$51,936	$57,628	$59,227
FTE	1,371.9	1,345.2	1,310.7	1,254.4	1,361.2	1,370.2

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER ASSISTANCE

HIGHLIGHT:

The Disaster Assistance program provides financial assistance through direct loans to victims of disasters which have been declared by the President or the Administrator of the Small Business Administration. Program clients for disaster assistance include property owners, tenants, businesses, and charitable organizations. The assistance may be used for the repair or replacement of personal property, homes, commercial property and capital equipment which has been damaged or destroyed by a declared disaster. In addition, financial assistance is provided to eligible small businesses suffering injury as a direct result of a declared disaster, to assist in the long-term recovery of the business. This assistance also includes loans to non-farm small businesses who have suffered economic injury as a result of farm disasters declared by the Secretary of Agriculture. The objective of the program is to provide assistance to disaster victims in as short a time as possible, while reducing operating expenses and maintaining sound accounting and financial judgement. In addition, this program provides resources to service a portfolio of almost 136 thousand loans valued at over $3 billion.

OTHER INFORMATION:

Due to the historical differences in the number and magnitude of disasters from one year to another it is nearly impossible to accurately forecast disasters. The level of fiscal resources needed for FY 1991 can, therefore, be subject to constant revision throughout the year. The goal of the Disaster Assistance Program is to constantly improve reaction to a variety of disasters as they occur and provide loan decisions based on sound accounting and credit procedures.

OBJECTIVES:

In FY 1991, the Disaster Assistance Program proposes to further improve the computerized disaster loan tracking system initiated in FY 1989. Such improvements will enable this office to more adequately provide National and Disaster Area Offices with improved management of the Disaster loan processing activities.

FY 1991 INITIATIVES:

The baseline for the Disaster Assistance programs is established at $285 million for loan making activities. This request restricts the loans to those borrowers who "cannot obtain credit elsewhere" and interest rates based on the Treasury rate. Related salaries and expenses are established at the average usage over the past four years. Therefore, normal disaster loan making activities are estimated at $13.4 million and disaster servicing activities at $6 million, for a total requirement of $19.4 million.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER ASSISTANCE
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$21,659	$17,496	$15,333	$13,613	$16,903	$12,157
Benefits	2,123	2,258	2,252	2,262	3,000	2,000
Travel	3,343	3,731	3,270	2,055	5,000	2,500
Transportation	44	7	43	101	-	-
Rents & Comm.	2,053	2,335	3,459	344	2,000	2,000
Printing	125	110	83	65	200	100
Other Services	354	241	562	565	1,400	400
Supplies	267	186	197	157	600	100
Equipment	138	435	535	109	500	100
Total	$30,106	$26,799	$25,734	$19,271	$29,603	$19,357
FTE's	923.9	757.4	643.3	518.3	1,000.0	550.0

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PROCUREMENT ASSISTANCE

HIGHLIGHT:

The basic objective of the Office of Procurement Assistance is to assure that small business receives a fair share of government procurement and sales through the Prime Contracts Assistance, Natural Resources Sales Assistance, Subcontracting Assistance and Certificate of Competency (COC) and Procurement Policy and Liaison Programs.

OTHER INFORMATION:

The estimated savings for FY 1989 of over $240 million, measured in connection with the Prime Contracts program and the COC program will significantly exceed the salaries and expenses of all Procurement Assistance personnel authorized for both Central Office and the field.

A. PRIME CONTRACTS PROGRAM

The Prime Contracts Program is charged with several functions and responsibilities which strengthen the economy of the Nation by preserving full and open competition and expanding small business opportunities in the Federal acquisition process. These are as follows:

- Program management of small business set-asides through SBA's Traditional Procurement Center Representatives;
- Program management of SBA's Breakout Procurement Center Representatives;
- Assessing the effectiveness of Federal agency small business utilization plans and programs through the Surveillance Review Program;
- Informing the general public and small business community of the opportunities in Government procurement and the capabilities of the Nation's small business community and the requirements of the Small Business Act and Federal Acquisition Regulations in this area; and
- Staff functions to include the analysis of proposed regulations, responding to congressional and public inquiries, preparing statutorily required reports and analyses; etc.

The Prime Contracts Program will monitor and manage the Traditional Procurement Center Representatives and Breakout Programs to increase the $19.7 billion (FY 1988) in small business set-asides to at least $20.9 billion. The breakout program projects $198 million in savings to the government as a result of breakout activity. The surveillance program will provide in-depth reviews of major acquisition activities to assist on small business activity. Breakout locations will be reviewed to assist with operational problems associated with the implementation of Public Law 98-577.

B. CERTIFICATE OF COMPETENCY PROGRAM

To increase small businesses' share of government awards and to enable specific small business firms to receive contracts they would otherwise be denied, section 8(b)(7) of the Small Business Act, as amended, permits SBA to issue a "Certificate of Competency," a document certifying as to the responsibility of a small business concern to perform a specific government contract. The term "responsibility" includes all criteria currently used by procurement officers to withhold awards from responsive small business concerns. It is also within SBA's jurisdiction to determine whether a small business is eligible for award as a manufacturer or a regular dealer under the provisions of the Walsh-Healey Public Contracts Act.

The issuance of a COC means a responsible small business which is the low offeror on a procurement will be awarded the contract that would have otherwise gone to a higher offeror. Total savings in FY 1989 were in excess of $42 million, that amount representing the difference to the government between the offer of the COC contractor and the next low offeror.

C. SUBCONTRACTING ASSISTANCE PROGRAM

The functions of the Subcontracting Assistance Program, as established by the Small Business Act, as amended, and specifically by Section 8(d) of the Act, are:

1. To aid, assist and counsel small and small disadvantaged business concerns.

2. To provide an equitable opportunity for small and small disadvantaged business concerns to compete for Federal subcontracts.

3. To provide small and small disadvantaged business the maximum practicable opportunities to participate in the performance of Federal subcontracts to the fullest extent consistent with efficient contract performance.

D. NATURAL RESOURCES SALES ASSISTANCE (NRSA)

The Natural Resources Sales Assistance Program was established to aid and assist small business in obtaining its fair share of Federal property offered for sale or disposal by other means. Within this government-wide program our efforts have been concentrated on the sales of Federal timber, royalty oil, coal leases and to a limited basis, on Federal surplus property sales and mineral leases.

The Natural Resources Sales Assistance Program is a function with Central Office staff management and industrial specialists located, Post-of-Duty, at key geographic locations throughout the United States. Within the program, efforts have stressed small business involvement in sales of government timber.

During FY 1989, small business was awarded over 2,700 individual Federal timber sales, representing approximately 4.0 billion board feet of sawtimber at a return to the government of over $774 million. Small business awards represented 61% of total Federal sawtimber sold in FY 1989. The small business timber program has assured the small business community its historical fair share of Federal timber through small business set-asides.

E. PROCUREMENT POLICY AND LIAISON

The Office of Procurement Policy and Liaison maintains contact with all Federal Agencies to ensure that small business concerns receive fair and reasonable treatment from such agencies. It participates in the development of Federal acquisition policy and regulations to represent the interests of the small business community, analyzes legislation to determine its impact on small business, and manages the Size Determinations Program.

F. PROCUREMENT AUTOMATED SOURCE SYSTEM (PASS)

The functional responsibility of this unit is to maintain an inventory of the productive capabilities of small business firms and to ascertain the means by which those capabilities can most effectively encourage agencies to utilize the data base to increase the small business share of Federal procurement. PASS serves as an integral component of the subcontracting and prime contracts programs, is a valuable resource for SBA's emphasis programs (minority, women and veterans) and provides small business sources in the implementation of Public Laws 95-507 and 99-661.

OBJECTIVES:

Various public laws require that Procurement Assistance strengthen private enterprise through expansion of free competition, encourage and develop the potential capacity of small business; increase the share of total sales of government property to small business including timber to small wood products firms; aid small businesses having contract and administrative problems; and assist R&D firms to procure government contracts. The government will award an estimated $185 billion to U.S. business firms in FY 1990. It is SBA's objective through its Prime Contracts, Subcontracts and Certificate of Competency programs to assure small business a fair share of these procurement dollars.

The Natural Resources Sales Assistance program will assure small business a fair share of the government's timber sales as well as sales of other resources. The Office of Procurement Policy and Liaison will, among other things, lead the goaling process required by P.L. 95-507 to increase the small and small disadvantaged business share of government contracts.

The quality of certification must be maintained to retain the program's creditability. Toward this end, COC program objectives include: (1) managing the contractor delinquency rate to an acceptable level, (2) reducing the termination for default rate, (3) eliminating non-COC specialists in the certification process, (4) increasing certified contract follow-up, and (5) conducting limited review of referrals under $25,000.

Objectives of PASS are:

- To increase competition for the number of awards of Federal Government contracts and subcontracts going to private sector business firms by increasing the number of new firms in the PASS data base to approximately 400,000 by the end of FY 1991;
- To increase the number and quality of interactive users (both at government and prime contractor locations) for on-line access and;
- To provide support for the Offices of International Trade, Veterans Affairs, and Women's Business Ownership by generating data for statistical analysis and providing mailing labels.

FY 1991 INITIATIVES:

This budget includes proposals and new initiatives for the programs administered by the Procurement Assistance activity of the SBA.

In FY 1991, we propose to increase the application and user charges on the PASS program to generate $500,000 in fees. This proposal would generate revenues to help offset a portion of the costs of the program. In addition, it will help improve the quality of the database.

This proposal will increase resources for the PASS program by $264,000 to a total of $1,443,000. In order to achieve a data base of 400,000 firms, it will be necessary that significant outreach efforts be performed.

The Procurement Assistance requested level includes funding for 30 additional FTE's. This increase is in support of the Breakout Procurement Program. Since FY 1986 this program has lost a total of 14 Breakout personnel which has resulted in reported Breakout savings dropping by approximately $40 million over two fiscal years. A number of these personnel who retired or left for better positions had been assigned to high potential locations such as Tinker and Kelly Air Force Bases. Savings at Tinker, which has lost two technical advisor personnel over the past two years, have dropped from a high of $73 million to a low of $12 million.

In FY 1989, OPC requested the regions to submit a list of proposed new breakout locations. These locations were required to meet at least two requirements. The first was a history of sole source procurements to other than small businesses and the second was a requirement to procure large dollar amounts of goods and services. After researching and studying various buying activities four candidates were identified which possess potential Breakout opportunities for small, minority and women owned businesses. These four locations are (1) the Federal Aviation Administration which has recently issued a number of extremely large contracts for the upgrading of the Air Traffic Control Network and is planning on issuing additional contracts for support and installation of equipment at air traffic centers; (2) the Goddard Space Flight Center, Greenbelt, Maryland, which procures approximately $1 billion worth of technical goods and services per year and its satellite facility in Reston, Virginia, responsible for the NASA Space Station Project and is funded at over $600 million; (3) NASA's Houston Space Flight Center, Houston, Texas; and (4) Kirtland Air Force Base. Each of these last two locations procure over $1 billion of highly technical services and equipment on a sole source basis and offer potential breakout opportunities.

The Office of Prime Contracts plans to discuss the possibility of establishing Breakout teams at these locations with their appropriate headquarters activities. If, after these discussions, the locations remain promising and it is decided to staff these locations then an additional 16 personnel positions will be required.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PROCUREMENT ASSISTANCE
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			308.6	$17,371
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +162		
Annualization of FY 1990 3.6% pay raise	-	+132		
Additional positions and annualization of existing positions....	+30.0	+430		
Extra day.............................	-	+50		
Benefits related to above..............	-	+140		
Subtotal, adjustments to base and built-in changes.........................			+30.0	+914
FY 1991 Base.............................			338.6	$18,285
Program Changes:				
Increase to PASS program			-	+264
FY 1991 Request			338.6	$18,549

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PROCUREMENT ASSISTANCE
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $14,143,000. For 338.6 Full-Time Equivalent Positions.

12. Personnel Benefits - $2,165,000. $793,000 for direct contribution to FERS retirement funds; $1,258,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes and CSRS retirement funds; and $114,000 for cost of living allowance for employees in covered locations.

21. Travel and Transportation of Persons - $359,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

22. Transportation of Things - $20,000. For movement of household goods in connection with employee relocation.

24. Printing and Reproduction - $40,000. For information pamphlets, small business week posters and miscellaneous printing and reproduction.

25. Other Services - $1,643,000. $1,443,000 for the Procurement Automated Source System; $99,000 for clerical support for Procurement Center Representatives; $72,000 for Small Business Week activities; and $29,000 for training and other miscellaneous contractual services.

26. Supplies and Materials - $29,000. For office supplies and materials.

31. Equipment - $150,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PROCUREMENT ASSISTANCE
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$10,023	$11,433	$12,037	$12,521	$13,369	$14,143
Benefits	1,263	1,502	1,735	2,024	2,025	2,165
Travel	489	487	366	444	359	359
Transportation	37	22	22	39	20	20
Rents & Comm.	-	-	-	3	-	-
Printing	49	20	31	40	40	40
Other Services	1,160	1,500	1,304	1,698	1,379	1,643
Supplies	9	15	13	12	29	29
Equipment	14	63	151	34	150	150
Total	$13,044	$15,042	$15,659	$16,815	$17,371	$18,549
FTE	248.9	284.1	296.0	297.1	308.6	338.6

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MINORITY SMALL BUSINESS & CAPITAL OWNERSHIP DEVELOPMENT

HIGHLIGHT:

The Office of Minority Small Business and Capital Ownership Development (MSB/COD) is responsible for the formulation of policies and the implementation of a business development program for businesses owned and controlled by socially or economically disadvantaged persons.

OTHER INFORMATION:

The function of MSB/COD is to establish, maintain and manage a small business development program which promotes and facilitates equal access for disadvantaged individuals to participate in the small business sector of the Nation's economy.

The unit accomplishes this function by providing or arranging for contractual, financial, technical & management assistance necessary to promote business development of concerns owned and controlled by disadvantaged individuals.

The unit is also responsible for assisting disadvantaged business persons in accessing the private marketplace. This is accomplished by encouraging the placement of contracts and subcontracts with small businesses located in areas with a high concentration of unemployed or low income individuals, and with small businesses owned and controlled by socially or economically disadvantaged individuals.

In addition, MSB/COD is responsible for coordinating and formulating policies relating to Federal assistance to small business concerns owned and controlled by socially or economically disadvantaged individuals and small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals. The SBA has, with the implementation of P.L. 100-656, renewed and increased its commitment to the minority and disadvantaged small business community.

OBJECTIVES:

In FY 1991 the added responsibilities for Business Development in the 8(a) Program stemming from the implementation of P.L. 100-656 will require an adjustment in staffing for this office. It will be necessary to increase performance in new areas of responsibility while maintaining the quality of various work products produced by the Office. This office will be required to monitor and report on the following new areas mandated by PL 100-656: Business Plan Requirement, Competitive Business Mix, Miller Act Exemptions, Walsh-Healey Act Exemptions, Surplus Property Use Oversight, Technology Transfer, Skills Training for 8(a) Company Employees, Competition Under 8(a), the 8(a) Loan Program (replacing Business Development Expense), Non-Manufacturer Rule Waivers, and Leader-Follower Teaming Agreements. This Act also provides for outreach activities to reduce underrepresentation of Federal contracting opportunities in geographic areas of the Nation which include large urban populations plagued by high unemployment. Section 210(b) requires the Administration to make a substantial effort to increase applications for certification from eligible concerns in area of concentrated unemployment or underemployment, in areas of labor surplus, in states having relatively few program participants and in industries that have not been represented in the program previously. 7(j) firms provided counseling on a task-day basis to 4,450 firms. The 8(a) program awarded 4,261 contracts for over $3.2 billion.

Also, we have recently finalized the administrative arrangements with the General Services Administration and the Minority Business Commission, to allow for the establishment of the Commission. We expect the Commission to begin to implement its mandates under P.L. 100-656 within the next few months. We are committed to fully supporting this initiative.

FY 1991 INITIATIVES:

1. This budget proposes $865,000 for the Minority Business Commission. This level is required to support the Commission's responsibilities as mandated by P.L. 100-656.

2. This budget also includes funding for 10 additional FTE's. These 10 positions are required to support P.L. 100-656 which in addition to 8(a) program eligibility termination and graduation, now also has the responsibility for outreach, processing applications within a statutory 90-day time frame and conducting annual certifications. It is also anticipated that the current 8(a) portfolio will continue to increase.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MINORITY SMALL BUSINESS/CAPITAL OWNERSHIP DEVELOPMENT
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES

($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			391.3	$ 26,581
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +27		
Annualization of FY 1990 3.6% pay raise	-	+139		
Additional positions and Annualization of existing positions................	+10.0	+322		
Extra day..............................	-	+8		
Benefits related to above..............	-	+85		
Subtotal, adjustments to base and built-in changes.........................			+10.0	+581
FY 1991 Base...............................			401.3	$ 27,162
Program Changes:				
Minority Business Commission			-	+372
FY 1991 Request			401.3	$ 27,534

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MINORITY SMALL BUSINESS/CAPITAL OWNERSHIP DEVELOPMENT
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $14,534,000. For 401.3 Full-Time Equivalent Positions.

12. Personnel Benefits - $2,271,000. $884,000 for direct contribution to FERS retirement funds; $1,245,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes and CSRS retirement funds; and $142,000 for cost of living allowance for employees in covered locations.

21. Travel and Transportation of Persons - $520,000. $400,000 for Central Office staff at $175 per day and field office staff at $110 per day; $120,000 for travel in connection with 8(a) training.

22. Transportation of Things - $20,000. For movement of household goods in connection with employee relocation.

24. Printing and Reproduction - $25,000. For forms to be used by program applicants; pamphlets; SOP's and miscellaneous printing and reproduction.

25. Other Services - $1,387,000. $20,000 for MED week; $80,000 for program development monitoring system; $40,000 for ARPS; $865,000 for Minority Commission; and $350,000 for 8(a) training; $32,000 for miscellaneous training and contractual services.

26. Supplies and Materials - $13,000. For office supplies and materials.

31. Equipment - $33,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

41. Grants - $8,731,000. For the grant activities associated with Section 7(j) program.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MINORITY SMALL BUSINESS/CAPITAL OWNERSHIP DEVELOPMENT
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$10,926	$10,933	$11,798	$12,101	$14,038	$14,534
Benefits	1,315	1,469	1,724	1,837	2,186	2,271
Travel	278	387	189	206	520	520
Transportation	3	22	12	1	20	20
Rents & Comm.	-	-	-	2	-	-
Printing	13	40	49	19	25	25
Other Services	1,213	1,531	1,432	517	1,015	1,387
Supplies	8	10	10	14	13	13
Equipment	9	7	516	1,204	33	33
Grants	5,855	6,389	7,258	8,019	8,731	8,731
Total	$19,620	$20,788	$22,988	$23,920	$26,581	$27,534
FTE	328.0	322.0	345.9	344.6	391.3	401.3

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
INNOVATION, RESEARCH AND TECHNOLOGY

HIGHLIGHT:

The Office of Innovation, Research and Technology (OIR&T) provides Federal Agency executive and policy direction, coordination of solicitation releases, program monitoring, programmatic assistance activities and the reporting of program results and administrative data to the Congress for the Small Business Innovation Development Act of 1982.

OTHER INFORMATION:

The Office of Innovation, Research and Technology is unique within the SBA in that the controlling legislation of its major program, the Small Business Innovation Development Act of 1982 (P.L. 97-219) and P.L. 99-443, establishes this office as the policy making function guiding the activities of 11 other major Federal agencies. The office also differs within SBA in that a product, service or outreach is not directly delivered to small businesses in a traditional sense. The Act directs this office to survey, monitor and report on all aspects of program operations. To fulfill this obligation, the office must interact with and monitor the activities of all participating agencies, monitor the business and technological progress of SBIR firms, and determine program progress in promoting commercialization. While in the early years most awards were for Phase I efforts at levels of no more than $50,000 per award, by FY 1991, as much as one-third of the awards and two-thirds of the dollars will be for Phase II at up to $500,000 each. This shift is causing an increasing emphasis on more intensive overview capability on the part of OIR&T. This overview process will be heavily dependent on an ongoing analytical study to determine the effectiveness of program operations and the commercialization aspects of the technical results of the awards. Public Law 99-443 requires a report of the Comptroller General by December 31, 1991 which is to include the judgements of heads of departments and agencies. To assure significant management and technical information and to provide a meaningful SBA input to this process, it is essential that we continue the multi-phase analytical study through FY 1991 as originally designed.

The SBIR program's originating legislation was formulated to assure a flow of new innovations and products into the marketplace and to provide a new mechanism for economic competitiveness. Because of the graduated phase-in process legislated for participating agency activity, it is expected that the number of projects completing Phase II and entering commercialization should be relatively stable by FY 1991. The continuing focus on commercialization activity will cause increased demands on program resources to assist in the process. The Commercialization Matching System (CMS), an automated process to match SBIR commercialization projects with sources of capital and co-venturing partners, will be strained to provide this important service.

The continuing increase in interest by small firms in participating in this program is expected to result in ever-increasing demand for program information in the years ahead. One of the activities set forth in the program legislation is the responsibility to inform small business of the opportunities and mechanics of the SBIR program. Our efforts to supply timely SBA pre-solicitation announcements at the levels requested continues to be stretched despite various actions to maintain stringent controls.

During FY 1991 there will be a continued strong emphasis on assuring a high rate of commercialization of SBIR Innovations. This important goal reflects a key provision of P.L. 97-219 and activities will be guided by the findings of the multi-year commercialization study and program experience.

We will, through FY 1991, continue our efforts to improve internal program efficiencies. These initiatives will assure that management controls, oversight and direction will support efficient and effective program operation.

The overall direction of maintaining a strong public awareness effort will be reviewed to determine effectiveness at reaching potentially eligible small firms, particularly those owned and managed by persons from underrepresented groups or geographical areas. This FY 1991 budget is predicated on normal, predicted program growth. There have been several legislative efforts and bills recently aimed at substantially increasing the size and activities of the SBIR program. These have not been factored into this request.

OBJECTIVES:

OIR&T's objectives include performing the following functions:

* Developing, maintaining, and issuing the Federal Government Program policy direction for the performance and administration of the Small Business Innovation and Research (SBIR) program within the 11 participating Federal agencies in accordance with Public Law 97-219 and Public Law 99-443.

* Informing and consulting with the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy and the Intergovernmental Affairs Division of OMB concerning policy direction matters.

* Making final Program Policy decisions concerning questions initiated by participating agencies.

- Maintaining a mailing list and disseminating national information and publications to over 60,000 interested and technically qualified small business concerns on a quarterly basis.

- Coordinating the master release schedule for SBIR solicitations each fiscal year with 11 participating SBIR agencies and departments.

- Independently monitoring and evaluating the operation and administration of SBIR and Research and Development (R&D) goaling programs within participating agencies and departments.

- Collecting, analyzing and preparing reports to Congress annually on SBA's monitoring efforts, program outreach information, and agency and department administration of the program.

- Assisting SBIR awardees with the acquisition of venture capital and other private funding for commercialization of SBIR funded projects.

- Performing a nationwide information program to inform and update interested small business concerns, universities, associations, state and local governments, and the public concerning the SBIR program.

- Providing nationwide outreach activity to encourage participation of small minority and disadvantaged businesses in the agency and departments' SBIR and R&D programs.

- Performing national programmatic SBIR studies to evaluate commercialization of SBIR awards.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
INNOVATION, RESEARCH, AND TECHNOLOGY
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			10.4	$ 1,226
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +6		
Annualization of FY 1990 3.6% pay raise	-	+5		
Extra day..............................	-	+2		
Benefits related to above..............	-	+1		
Subtotal, adjustments to base and built-in changes.........................			-	+14
FY 1991 Base.............................			10.4	$ 1,240
Program Changes:				
No changes				
FY 1991 Request			10.4	$ 1,240

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
INNOVATION, RESEARCH AND TECHNOLOGY
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $505,000. For 10.4 Full-Time Equivalent Positions.

12. Personnel Benefits - $72,000. $28,000 for direct contribution to FERS retirement funds; $44,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes and CSRS retirement funds.

21. Travel and Transportation of Persons - $32,000. Travel for Central Office staff at $175 per day.

22. Transportation of Things - $8,000. For movement of household goods in connection with employee relocation.

24. Printing and Reproduction - $94,000. For SBIR pre-solicitation announcements, annual report and miscellaneous printing and reproduction.

25. Other Services - $518,000. $68,000 for the SBIR mailing lists; $75,000 for the SBIR computer matching; $70,000 for the SBIR distribution patterns; $80,000 for the SBIR outreach conferences; $150,000 for the SBIR technical evaluations; $45,000 for Regional audio/visual outreach; $25,000 for minority outreach program; and $5,000 for training and miscellaneous contractual services.

26. Supplies and Materials - $6,000. For office supplies and materials.

31. Equipment - $5,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
INNOVATION, RESEARCH & TECHNOLOGY
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$426	$461	$473	$465	$492	$505
Benefits	45	52	57	62	71	72
Travel	7	4	3	4	32	32
Transportation	-	-	-	-	8	8
Rents & Comm.	-	-	-	-	-	-
Printing	57	74	61	56	94	94
Other Services	112	323	269	261	518	518
Supplies	-	1	1	1	6	6
Equipment	3	1	15	5	5	5
Total	$650	$916	$879	$854	$1,226	$1,240
FTE	9.5	9.8	9.6	9.3	10.4	10.4

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
ADVOCACY

HIGHLIGHT:

The Office of Advocacy represents small business interests before other Federal agencies, analyzes the effect of Federal laws, regulations, and activities on small business, utilizes the small business economic data base to aid in this analysis, and communicates with small business, other government agencies, and the public on small business policies of the Federal government. This office includes: the Office of Interagency Affairs, the Office of Economic Research, and the Office of Information.

OTHER INFORMATION:

The Office of Interagency Affairs is the center of policy analysis within the Office of Advocacy. Staff members work with small business organizations, Federal agencies and Congress to assure that small business concerns are addressed in Federal policy decisions. The office evaluates legislative and regulatory proposals and provides the Chief Counsel with support in representing small business views. The staff monitors Agency compliance with the Regulatory Flexibility Act and reports to the agencies and to Congress. This office focuses on policy issues including securities, pension and health benefit laws, international trade, procurement and economic regulation.

The Office of Economic Research develops and maintains a small business economic data base for use by the Advocacy analysts and by other Federal or State and local government policy makers. This data base is maintained in response to the direction of the Small Business Economic Policy Act of 1980, P.L. 96-302.

In addition, the office continually develops and updates information on the role of small business in the economy and on the impact of Federal policy on small firms through staff and contractor research.

Key research on small business job generation, contributions to innovation and Federal regulatory impacts all come from this program. The annual President's Report on the State of Small Business originates in this office.

The Office of Information serves as a resource to other Advocacy staff members editing reports and publications, distributing research and testimony to small business organizations, SBA field offices and others. In addition, this office runs the Small Business Answer Desk, handling more than 50,000 calls for information on SBA or other Federal activities of interest to small business owners.

The State and Local Affairs Office in the Chief Counsel's Office coordinates the activities of Regional Advocates in providing information on small business policies to state legislators and small business program officials. The Office of the Chief Counsel also provides administrative and policy coordination to the various Advocacy units.

OBJECTIVES:

The Office of Advocacy expects FY 1991 to follow the pattern of the three preceding fiscal years with an increased demand for Advocacy activities and research. The office expects to accomplish that research and activity through careful delineation of priority activities and prudent management of resources.

The general office goal continues toward a positive economic and governmental environment for small business. Within that goal are specific objectives which to a large degree, are reflected in the organizational structure of the office.

The major objectives are: improvement of government policies toward small business; analyze the role of small business in the economy; and inform the small business community of relevant federal programs and policies.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
ADVOCACY
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			66.5	$ 5,309
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +37		
Annualization of FY 1990 3.6% pay raise	-	+30		
Annualization of existing positions....	+2.0	+27		
Extra day..............................	-	+11		
Benefits related to above..............		+19		
Subtotal, adjustments to base and built-in changes.........................			+2.0	+124
FY 1991 Base...............................			68.5	$ 5,433
Program Changes:				
No changes				
FY 1991 Request			68.5	$ 5,433

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
ADVOCACY
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $3,112,000. For 68.5 Full-Time Equivalent Positions.

12. Personnel Benefits - $381,000. $172,000 for direct contribution to FERS retirement funds; $209,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $94,000. Travel for Central Office staff at $175 per day.

24. Printing and Reproduction - $84,000. For printing of miscellaneous informational materials including brochures, publications and training materials. Also included is the printing of the "State of Small Business" report.

25. Other Services - $1,693,000. $691,000 for research contracts; $972,000 for data base; and $30,000 for training and other miscellaneous contractual services.

26. Supplies and Materials - $44,000. For office supplies and materials.

31. Equipment - $25,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
ADVOCACY
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$2,942	$2,954	$2,900	$2,810	$3,007	$3,112
Benefits	312	343	431	474	362	381
Travel	69	61	79	40	94	94
Transportation	-	1	5	2	-	-
Rents & Comm.	-	-	-	132	-	-
Printing	49	44	120	104	84	84
Other Services	2,139	2,538	2,054	2,139	1,693	1,693
Supplies	28	38	31	44	44	44
Equipment	6	39	423	24	25	25
Total	$5,545	$6,018	$6,043	$5,769	$5,309	$5,433
FTE	76.1	72.5	71.7	67.5	66.5	68.5

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
SUMMARY

Special Programs includes seven functional units that encompass the management counseling and training endeavors of SBA, as well as the special emphasis programs of the Agency. These include:

1. Office of Business Development
2. Women's Business Ownership
3. Veterans Affairs
4. Private Sector Initiatives
5. International Trade
6. National Advisory Council
7. Small Business Development Center

The following page delineates summary data for all seven units, including aggregated personnel and administrative expense data. Subsequent pages contain details for each of the seven units included in Special Programs.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
SUMMARY
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			387.2	$79,424
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +182		
Annualization of FY 1990 3.6% pay raise	-	+148		
Additional positions and annualization of existing positions................	+8.0	+77		
Extra Day..............................	-	+56		
Benefits related to above..............	-	+86		
Subtotal, adjustments to base and built-in changes.........................			+8.0	+549
FY 1991 Base...............................			395.2	79,973
Program Changes:				
Elimination of Rural Development			-	-1,973
Increase for Women's Outreach			-	+3,033
Elimination of East-West Center			-	-493
Increase Trade Shows/Outreach			-	+307
SBDC program			-	-19,338
FY 1991 Request			395.2	$61,509

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
SUMMARY
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$12,990	$12,940	$14,128	$14,535	$14,749	$15,212
Benefits	1,533	1,683	2,100	2,346	2,222	2,308
Travel	1,804	1,917	1,856	2,070	2,106	2,106
Transportation	8	18	36	79	20	20
Rents & Comm.	-	-	-	106	-	
Printing	475	273	398	256	504	504
Other Services	3,621	3,554	3,895	4,715	9,445	10,319
Supplies	32	30	95	92	96	96
Equipment	8	287	129	368	56	56
Grants	31,011	33,823	40,594	47,451	50,226	30,888
Total	$51,482	$54,525	$63,231	$72,018	$79,424	$61,509
FTE	374.6	369.9	400.4	403.0	387.2	395.2

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
BUSINESS DEVELOPMENT

HIGHLIGHT:

The majority of the Nation's small business failures can be directly attributed to managerial deficiencies. The counseling, training and awareness programs of the SBA's Office of Business Development (OBD) have been conceived and designed to address those deficiencies.

In FY 1991, the Office of Business Development will expand the distribution of business education information by continuing to develop the outreach capabilities that were started in FY 1990.

Continued emphasis will be placed on making small business owners and potential owners aware of existing assistance at the local, state and Federal levels as well as those programs available in the private sector. The Office of Business Development will continue to expand the base of cooperative projects with private sector firms and will expand the use of mass education to the small business community.

OTHER INFORMATION:

1. SCORE AND ACE

   Business Development has a volunteer resource that numbers approximately 13,000. This cadre of retired and active business persons donate their time and expertise in assisting small business owners and potential owners by providing management and technical advice. This service is available nationally in over 500 chapters, where one-on-one counseling and group training is conducted. The counseling skills of SCORE span just about every type of business and business management background.

2. SMALL BUSINESS INSTITUTE

   The Small Business Institute program serves a dual purpose. First, it offers a team approach to solving small business problems and secondly, it provides senior and graduate students, from leading universities, hands-on experience in solving business problems. Working in teams of 8 to 10, these students from over 500 universities, work under the guidance of a business professor. Projects range from solving specific business operating problems to research type cases, to rural community economic development studies.

A program of industry profile studies started in FY 1989 will be continued in FY 1990 and 1991. This project is designed to obtain in-depth information in selected industries that will be used to assist small businesses. When the project is completed, the top 250 small business industries will have been researched and a report on that industry's trends, ratios, investment needs and other helpful information on that industry will be provided to all SBA resources and the general public.

Another emphasis that will be continued in FY 1991 is assistance to rural communities. The SBI program lends itself well to assisting rural communities in researching and developing a workable economic development plan. Pilot projects of this type have been completed and the focus of this program will be redirected to meet the needs of total communities rather than the one-on-one counseling that has been done in the past.

3. PUBLICATIONS

By FY 1991, the publications program will have completed its evolution from a totally free distribution to a donation supported program. The Office of Business Development has already begun a program of outreach that each month increases the distribution volume in the publication program.

In order to meet the needs of small business and to reach a greater percentage of clients, the Office of Business Development will be adding video tape libraries and computer programs to the publications program. Many of these tapes and computer programs will be donated by the private sector or will be made available to the Agency for duplication costs.

By FY 1991, it is anticipated that educational information will be made available to small businesses by using "state of the art" distribution systems such as telefax and point of sale computer installations whereby information will be readily available to individuals in high traffic areas such as libraries, shopping malls, chambers of commerce, etc.

4. MARKETING

Marketing will be an important part of Business Development's operation. Without the small business community knowing what is available for small business, they can not take advantage of all the assistance at the local, state and Federal levels and the private sector. Finding new and innovative ways of reaching the potential clients have been and will continue to be the main thrust. A program of getting associations more involved in supporting small business information and educational programs will be increased in FY 1990 and FY 1991. Reaching out to associations' national meetings with educational materials and information booths will be highlighted.

5. RURAL DEVELOPMENT

The Rural Development program of SBA was brought to the Office of Business Development in the last part of FY 1989. Specific outreach services/projects have been designed that will be completed in FY 1990. This request eliminates the funding for the special rural development grants made in FY 1990.

OBJECTIVES:

* To design a training plan in voluntary benefits.

* To establish procedures for clearinghouse, accounting, approval and reporting for cosponsored projects with the private sector.

* To update all OBD for-sale publications.

FY 1991 INITIATIVES:

This budget includes proposals for the programs administered by the Business Development activity of the SBA.

In FY 1991, we propose to increase by a nominal amount, the charge for business development publications. We expect this initiative to generate $500,000 in fees. This proposal would generate revenues to help offset a portion of the costs of the publications.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
OFFICE OF BUSINESS DEVELOPMENT
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			324.9	$22,120
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +142		
Annualization of FY 1990 3.6% pay raise	-	+121		
Extra Day.............................	-	+46		
Benefits related to above.............	-	+52		
Subtotal, adjustments to base and built-in changes.........................			-	+361
FY 1991 Base..............................			324.9	22,481
Program Changes:				
Elimination of Rural Development			-	-1,973
FY 1991 Request			324.9	$20,508

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
OFFICE OF BUSINESS DEVELOPMENT
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $12,383,000. For 324.9 Full-Time Equivalent Positions.

12. Personnel Benefits - $1,875,000. $752,000 for direct contribution to FERS retirement funds; $1,050,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes and CSRS retirement funds, and $73,000 for cost of living allowance for employees in covered locations.

21. Travel and Transportation of Persons - $1,788,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day. Included is $1,581,000 for SCORE travel.

22. Transportation of Things - $20,000. For movement of household goods in connection with employee relocation.

24. Printing and Reproduction - $379,000. For management training publications and miscellaneous program brochures and SOP's.

25. Other Services - $3,065,000. $2,490,000 for the Small Business Institute (SBI) program; $80,000 for Management Information Summary (MIS) data; $100,000 for publication distribution; $100,000 for training materials; $120,000 for program studies and surveys; $30,000 for contract writers/editors; $65,000 for meetings and conferences; $80,000 for other miscellaneous contractual services.

26. Supplies and Materials - $74,000. For office supplies and materials.

31. Equipment - $36,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

41. Grants - $888,000. For SCORE grant.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
BUSINESS DEVELOPMENT
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$11,208	$11,105	$11,802	$11,972	$12,074	$12,383
Benefits	1,340	1,474	1,779	1,989	1,823	1,875
Travel	1,464	1,627	1,479	1,682	1,788	1,788
Transportation	8	12	36	76	20	20
Rents & Comm.	-	-	-	105	-	-
Printing	403	174	362	242	379	379
Other Services	3,341	3,398	3,514	3,039	5,038	3,065
Supplies	16	21	85	24	74	74
Equipment	3	130	66	290	36	36
Grants	906	834	998	1,001	888	888
Total	$18,689	$18,775	$20,121	$20,420	$22,120	$20,508
FTE	328.2	326.7	341.3	339.9	324.9	324.9

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
WOMEN'S BUSINESS OWNERSHIP

HIGHLIGHT:

The Office of Women's Business Ownership (OWBO) was formed to implement a national policy to support women entrepreneurs. Women business owners represent 30 percent of the small business community and gross over $71 billion in annual receipts (IRS, 1986). The office has the responsibility to see that the provisions of Executive Order 12138 and other Administration and Congressional guidance concerning women's business ownership are carried out. In addition, this office also has primary responsibility for the implementation of HR 50-50's demonstration grant program.

The program advocates on behalf of present and potential women business owners throughout all program areas of the Small Business Administration provides staff support to the Interagency Committee on Women's Business Enterprise (IACWBE) through Executive Order 12138. The IACWBE works specifically with major Federal agencies and departments to identify, develop, and monitor opportunities for women business owners. In FY 1989 the SBA approved over 2,267 loans for $381 million in gross dollars and $318 million in SBA's share of dollars loaned to women-owned businesses. In addition, traditional programs provided counseling to 102,087 women and trained 182,456 women.

OTHER INFORMATION:

The OWBO has continued to provide quality assistance to women who want to start a business and/or who are currently in business. However, women are the fastest growing segment of the small business community and thus the sheer volume of this constituency has grown significantly, as have their needs. In addition, the Congressional and Executive Branch emphasis on this program has put a welcome but ever growing demand on this staff. For FY 1990 and FY 1991 the OWBO needs to grow to meet the demands for these services. Congressional mandate has created five positions to staff the National Women's Business Council. Additionally, P.L. 100-533 authorized Demonstration Projects.

OBJECTIVES:

- Strengthen central and field office efforts in women's business development.
- Establish the National Women's Business Council.

* Initiate and coordinate procurement and credit conferences.

* Continue progress in extending the business mentor program nationwide.

* Provide long term training and counseling for women business owners as mandated by Congress.

In addition to providing support to the IACWBE, the basic functions of this office include the following:

1. Development and coordination of a national program including a conference series in areas defined as "emphasis areas" for women: financial planning, marketing, business expansion, procurement, and exporting.
2. Program development in fostering entrepreneurship among young high school or college age women in conjunction with the Future Business Leaders of America or other such appropriate private sector entities.
3. Development of research symposium to gather current academic knowledge of the quickly changing women's business ownership field, which will also aid in the development of meaningful SBA programs.
4. Serve as principal liaison with business, educational, philanthropic, organizational and community resources to assist the growth and development of women-owned businesses.
5. Develop programs geared toward increasing women's participation in federal procurement, including the development of 50 procurement conferences to be held around the country.
6. Develop and monitor publications, media, and casework activities, in an effort to disseminate information about governmental programs and services that benefit women-owned businesses, including specific material from the Office of Women's Business Ownership.
7. Development of rural outreach to women business owners to train in business start-ups.
8. Continue the National Initiative legacy program through outreach and program coordination with the network of 501(c)(3) groups created by the National Initiative in 1983-84.

9. Provide training for SBA Women's Business Ownership Coordinators and Representatives in the field, as requested by the General Accounting Office in their report on the program.

10. Serve as a clearinghouse for the dissemination of information and the receipt of suggestions concerning Federal policies and activities related to women business owners.

11. Implement and monitor a demonstration project grant which provides long-term training and counseling to women business owners.

12. Development of 10 credit conferences to foster education of women business owners in how to obtain credit.

P.L. 100-533 also established a Women's Business Council with responsibilities to evaluate the government women's programs. We are committed to providing the full level of support to this Council in FY 1990 and FY 1991.

FY 1991 INITIATIVES:

1. This budget includes $500,000 to continue funding the Women's Business Council as mandated by P.L. 100-533.

2. In order to accomplish the SBA's objective to increase its support to the women-owned business population, this request includes resources for the full support and implementation of the new demonstration grant program, authorized under P.L. 100-533. We are requesting $5 million for the continued funding of the demonstration program.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
WOMEN'S BUSINESS OWNERSHIP
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			9.2	$ 3,272
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +4		
Annualization of FY 1990 3.6% pay raise	-	+3		
Additional positions and annualization of existing positions................	+5.0	+42		
Extra day..............................	-	+1		
Benefits related to above.............	-	+16		
Subtotal, adjustments to base and built-in changes.........................			+5.0	+66
FY 1991 Base..............................			14.2	3,338
Program Changes:				
Increase for Women's Outreach			-	+3,033
FY 1991 Request			14.2	$ 6,371

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
WOMEN'S BUSINESS OWNERSHIP
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $362,000. For 14.2 Full-Time Equivalent Positions.

12. Personnel Benefits - $59,000. $24,000 for direct contribution to FERS retirement funds; $35,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $18,000. Travel for Central Office staff at $175 per day.

24. Printing and Reproduction - $42,000. For miscellaneous printing and reproduction.

25. Other Services - $5,879,000. $5,000,000 for Demonstration projects as authorized under P.L. 100-533; $150,000 for management training; $45,000 for production of films; $180,000 for census statistics; $4,000 for other miscellaneous contractual services; and $500,000 for Commission on WBO.

26. Supplies and Materials - $4,000. For office supplies and materials.

31. Equipment - $7,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
WOMEN'S BUSINESS OWNERSHIP
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$244	$204	$253	$276	$312	$362
Benefits	31	25	38	45	43	59
Travel	17	39	39	80	18	18
Transportation	-	3	-	1	-	-
Rents & Comm.	-	-	-	-	-	-
Printing	30	55	2	1	42	42
Other Services	25	1	25	1,086	2,846	5,879
Supplies	9	2	1	-	4	4
Equipment	-	-	-	48	7	7
Grants	-	-	-	1,288	-	-
Total	$356	$329	$358	$2,825	$3,272	$6,371
FTE	8.4	6.3	8.0	7.8	9.2	14.2

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
VETERANS AFFAIRS

HIGHLIGHT:

The Office of Veterans Affairs (OVA) coordinates the outreach and program activities of ten (10) Regional Veterans Affairs Officers and SCORE Veterans Affairs Coordinators. The OVA monitors the Vietnam-era and Disabled Veteran Loan Program; develops a calendar for veteran training and conferences; and establishes in-depth training programs for veterans and provides specialized veteran training in cooperation with the private sector, Federal, state and local governments. The OVA also fosters the creation of the Veteran Business Resource Councils (VBRCs).

OTHER INFORMATION:

SBA's Veterans Affairs program is the result of the Congressional mandate of P.L. 93-237 that the Agency give special consideration to veterans. This is accomplished by providing outreach to veterans and veteran groups throughout the regions, sponsoring conferences and seminars to explain SBA's assistance programs, providing and sponsoring entrepreneurial training and counseling for veterans, and training veterans on how to do business with the government at the Federal, state and local levels. During FY 1989, the ten Regional Offices held 754 Veterans Conferences attended by 47,000 veterans. FY 1989 also included 13,711 veterans counseled.

OBJECTIVES:

The Office of Veterans Affairs' main objective is to provide a comprehensive outreach program to America's veteran community and veteran owned small businesses throughout the country. This is accomplished by conducting a variety of training conferences, providing interactive computer training and long-term entrepreneurial training, marketing SBA services to veterans, promoting procurement goals for veteran owned businesses and conducting research on veterans economic conditions. Also, OVA has a very active program to reach the veterans returning to civilian life. Through our special emphasis training conferences we anticipate reaching 50,000 to 60,000 veterans nationwide and provide them with pre-business workshops, marketing and finance training and interactive computer training during FY 1991. The Office of Veterans Affairs projects approximately 15,000 veterans will be counseled by veterans affairs officers throughout the nation during FY 1991.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
VETERANS AFFAIRS
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			15.4	$ 1,239
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +8		
Annualization of FY 1990 3.6% pay raise	-	+6		
Extra day..............................	-	+2		
Benefits related to above..............	-	+2		
Subtotal, adjustments to base and built-in changes.........................			-	+18
FY 1991 Base...............................			15.4	1,257
Program Changes:				
No changes			-	-
FY 1991 Request			15.4	$ 1,257

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
VETERAN'S AFFAIRS
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $636,000. For 15.4 Full-Time Equivalent Positions.

12. Personnel Benefits - $92,000. $36,000 for direct contribution to FERS retirement funds; $56,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $40,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

24. Printing and Reproduction - $17,000. For miscellaneous printing and reproduction.

25. Other Services - $464,000. $459,000 for Veteran's Outreach and $5,000 for training.

26. Supplies and Materials - $4,000. For office supplies and materials.

31. Equipment - $4,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
VETERAN'S AFFAIRS
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$193	$240	$555	$615	$620	$636
Benefits	19	25	80	92	90	92
Travel	69	35	86	37	40	40
Transportation	-	-	-	-	-	-
Rents & Comm.	-	-	-	-	-	-
Printing	16	27	14	4	17	17
Other Services	143	106	92	88	464	464
Supplies	4	5	4	7	4	4
Equipment	2	122	24	5	4	4
Grants	80	288	259	213	-	-
Total	$526	$848	$1,114	$1,061	$1,239	$1,257
FTE	5.0	4.5	13.8	14.7	15.4	15.4

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
PRIVATE SECTOR INITIATIVES

HIGHLIGHT:

The Private Sector Initiatives (PSI) identifies and secures new private resources for small business growth including private sector credit, personnel resources, facilities and investment capital through the formation of partnerships with corporate entities, professional and trade associations and agreements with other governmental agencies.

OTHER INFORMATION:

The PSI functions include soliciting support from private sector corporations, foundations, and other interests in supporting programs that assist small business, developing and promoting projects that combine the resources of the Agency with those of the private sector, other Federal agencies, State and local governments and other interested groups, in an effort to leverage available resources and to avoid costly duplications; developing, administering, and evaluating demonstration projects that leverage Agency resources with private sector funding; planning, administering and evaluating comprehensive oversight of all Agency activities involving use of private sector resources; coordinating SBA efforts with regard to private sector initiatives; and providing encouragement and assistance to all units of the Agency, ultimately increasing the utilization of the private sector in implementing goals.

OBJECTIVES:

- Establishing a strong working relationship with SBA's Office of Veterans Affairs, other agencies and the private sector.
- Promoting private sector involvement in extended in-depth training programs for Veterans.
- Identifying states where little or no training has been available and intensify efforts in these areas.
- Soliciting private sector support to strengthen the structure of and increase the number of Veterans business resource councils.
- Working with the Office of Communications to promote private sector cosponsorship of Public Service Announcements (PSA) for SBA.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
PRIVATE SECTOR INITIATIVES
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			4.6	$ 344
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +3		
Annualization of FY 1990 3.6% pay raise	-	+3		
Extra day...........................	-	+1		
Subtotal, adjustments to base and built-in changes.........................			-	+7
FY 1991 Base...............................			4.6	351
Program Changes:				
No changes			-	-
FY 1991 Request			4.6	$ 351

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
PRIVATE SECTOR INITIATIVES
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $228,000. For 4.6 Full-Time Equivalent Positions.

12. Personnel Benefits - $33,000. $12,000 for direct contribution to FERS retirement funds; $21,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $28,000. Travel for Central Office staff at $175 per day.

24. Printing and Reproduction - $25,000. For miscellaneous printing and reproduction.

25. Other Services - $30,000. For miscellaneous other contractual services.

26. Supplies and Materials - $2,000. For office supplies and materials.

31. Equipment - $5,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
PRIVATE SECTOR INITIATIVES
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$254	$246	$261	$212	$221	$228
Benefits	26	33	41	33	33	33
Travel	26	8	14	6	28	28
Transportation	-	2	-	-	-	-
Rents & Comm.	-	-	-	-	-	-
Printing	15	9	-	-	25	25
Other Services	4	4	-	2	30	30
Supplies	2	1	1	2	2	2
Equipment	-	1	3	-	5	5
Total	$327	$304	$320	$255	$344	$351
FTE	5.9	5.1	5.9	4.6	4.6	4.6

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
INTERNATIONAL TRADE

HIGHLIGHT:

The activities of the Office of International Trade (OIT) are designed to fulfill the requirements of Public Law 96-481 and the Omnibus Trade Bill and to support the high priorities as established by the Administrator. This will be accomplished primarily through outreach activities and programs to the small business community with emphasis on counseling and training. OIT provides information to and educational opportunities for small business owners to learn how to enter the global marketplace or, if they are already exporting, how to move into new markets. The program is designed to provide basic information on exporting, including data and resources available at the Federal, regional and state levels, and information on marketing opportunities. OIT also markets SBA and other financial assistance programs to the exporting community in conjunction with SBA's Finance and Investment Division as well as other Federal agencies and private sector resources. The educational component consists of numerous conferences, meetings and seminars and is designed to attract both new to export and new to market participants. This is accomplished through a two-track system, one track providing basic information on exporting and another track providing industry specific and country specific information to both the participant and to the small business community. A concentration on free markets such as Canada, the European Community (EC) 1992 countries and the Pacific Rim countries, provides small businesses with information and technical assistance in those global markets most likely to be effective and profitable for small companies. Moving toward industry-specific technical assistance allows OIT to focus on those industries with the most potential for small business in the world market. Additionally, the Office supports small business participation in selected overseas Trade Missions and Matchmakers delegations.

OTHER INFORMATION:

Due to the high priority given the Office of International Trade by the SBA Administrator, the high visibility given to the subject of international trade by both the President and Members of Congress (evidenced in the Omnibus Trade Bill), and the continuing trade imbalance, OIT expects to expand its existing programs and to develop new initiatives to fulfill the increasing needs of the small business community across the country. Additionally, OIT will have a significant role in outlining the trade programs that may be developed by the SBDC's.

In FY 1991, we plan to continue our emphasis and support of exporting for small businesses. In FY 1988 the SBA conducted 10 regional conferences and 600 satellite conferences. During the year approximately 1,000 informational packages were sent out and 30,000 copies of the Exporters Guide to Federal Resources for Small Business were distributed. We had a very progressive year in FY 1989, exposing the Agency's programs to the small business community to promote exporting. This was primarily done through the Agency's first nationwide video teleconference that had 1,500 participants. In addition, two trade conferences during FY 1989 attracted 2,000 participants and over 50,000 copies of the Export Guide were distributed. This trend will continue in FY 1990 and FY 1991. We feel that this area is very important to the future success and vitality of the small business community. It is also very important to ensure the proper trade balance for the U.S. economy. The small business sector can make significant contributions in this area, as they do in all other aspects of the U.S. economy.

OBJECTIVES:

* To provide outreach to the small business community, in cooperation with Federal, State, and local organizations and private sector parties to encourage consideration of the global marketplace.

* To provide education opportunities to current and potential small business exporters in the form of conferences, meetings and seminars at the national, regional and district levels, including follow-up to the national policy seminar, exhibition and trade fair, Export Expo 1990, which will be held in March 1990 and a rural development seminar that was held in December of 1989 to encourage small businesses to export from the rural areas and Canada First seminars.

* To develop and provide small business exporters with export information and assistance that is available at the Federal, State and regional levels with emphasis on providing information and facilitating international joint ventures between U.S. and foreign small businesses.

* To support greater participation of small businesses in overseas trade missions activities in cooperation with the Department of Commerce, including Matchmaker and SBA trade missions.

* To facilitate the delivery of export assistance including counseling and training to targeted small businesses through local SBA, SCORE, SBDC, university and private sector resources.

* To market SBA financial assistance programs to the small business exporting and banking community in order to increase small business access to export financing through the SBA's Export Revolving Line of Credit and other programs including publication

of an international trade financing handbook for SBA personnel. These efforts are undertaken in conjunction with the Export-Import Bank and other Federal and private sector sources.

- To represent small business export needs in trade negotiations, and in intergovernmental and private sector forums.
- To train SBA personnel, volunteer counselors, university and other private sector resource partners in international trade procedures and programs which can be undertaken to assist the small business exporting community, including an internship program for SBA personnel in private sector small businesses.
- To assist small business in obtaining information about potential overseas markets utilizing the Export Information System (XIS) and other information sources including but not limited to providing database systems information and data. Also, to assist small business in the conversion to the metric system to enable them to export.
- To assist small businesses in obtaining legal assistance in the area of international trade, utilizing the agreement signed with the Federal Bar Association (FBA).
- To publish and update international trade State resource directories.
- To publish and update a handbook to assist SCORE representatives to provide proper assistance and guidance to small business in the area of international trade.
- To develop various publications (as needed) to assist small business in the area of international trade, including country specific fact sheets, an OIT newsletter, and updating the "Exporter's Guide to Federal Resources for Small Businesses."
- To assist the SBDC office in the development, of an International Trade Center in each of the established SBDCs.
- To provide support for the first international trade conference which will be primarily devoted to minority small businesses.
- To develop programs that will assist small business to export to specific countries around the world with special emphasis on Canada, the Pacific Rim countries, the EC 1992 countries and some Eastern Block countries such as Poland.

FY 1991 INITIATIVES:

The Omnibus Trade Bill, passed in 1988, significantly expands the SBA's role in the international trade area. Our goal is for the SBA to fully respond to this legislation through increased outreach and involvement of the small business community in our training and informational seminars and our financial assistance programs. The budget reflects an additional $300,000, for a total of $800,000 for outreach resources to support this initiative. In addition to this increase this proposal includes three additional FTE's, necessary to fully support the requirements of the Omnibus Trade Bill.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
INTERNATIONAL TRADE
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			18.6	$ 2,115
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +10		
Annualization of FY 1990 3.6% pay raise	-	+8		
Additional positions and annualization of existing positions................	+3.0	+35		
Extra day.............................	-	+3		
Benefits related to above..............	-	+14		
Subtotal, adjustments to base and built-in changes........................			+3.0	+70
FY 1991 Base..............................			21.6	2,185
Program Changes:				
Elimination of East-West Center			-	-493
Increase Trade Shows/Outreach			-	+307
FY 1991 Request			21.6	$ 1,999

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
INTERNATIONAL TRADE
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $896,000. For 21.6 Full-Time Equivalent Positions.

12. Personnel Benefits - $147,000. $52,000 for direct contribution to FERS retirement funds; $85,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds; and $10,000 for cost of living allowance for employees in covered locations.

21. Travel and Transportation of Persons - $42,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

24. Printing and Reproduction - $38,000. For miscellaneous printing and reproduction.

25. Other Services - $870,000. $800,000 for trade shows/fairs; $30,000 for Regional Matchmaker Conferences; $30,000 for export data; and $10,000 for training and other miscellaneous contractual services.

26. Supplies and Materials - $4,000. For office supplies and materials.

31. Equipment - $2,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
INTERNATIONAL TRADE
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$569	$588	$702	$805	$840	$ 896
Benefits	62	65	99	110	133	147
Travel	31	17	43	91	42	42
Transportation	-	1	-	2	-	-
Rents & Comm.	-	-	-	-	-	-
Printing	9	6	16	9	38	38
Other Services	87	40	42	236	1,056	870
Supplies	1	-	4	59	4	4
Equipment	3	30	36	25	2	2
Grants	-	-	-	41	-	-
Total	$762	$747	$942	$1,378	$2,115	$1,999
FTE	14.0	13.8	17.3	21.7	18.6	21.6

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
NATIONAL ADVISORY COUNCILS

HIGHLIGHT:

The functions of the National Advisory Council (NAC) is to advise the Administrator on ways of improving the effectiveness of current and proposed programs, advise the Regional Administrators on economic conditions within their constituency, and to evaluate proposed regional programs. In addition, this office provides information on local programs, indicating their usefulness in specific geographical areas.

OBJECTIVES:

- To bring together and provide a dialogue between the leadership elements and the more than 18 million U.S. small businesses.

- To aid SBA in representing small business and bring about a greater awareness of their contribution to job creation, GNP expansion and product innovation in the economy.

- To involve the nation's university community with government and the small business enterprise system in a partnership-for-growth and productivity.

- To advise the Administrator and SBA staff on ways of improving the effectiveness of current and proposed programs through the "grass roots" volunteer membership of the National Advisory Council and the Regional Area Advisory Councils.

- To act as an informational channel to local business and commercial interests regarding specific SBA programs and their usefulness in specific geographic areas.

- To establish such Advisory boards and committees as may be necessary to achieve the purpose of the Act, i.e., "pursuant to the authority of Section 8(b)(13) of the Small Business Act of 1953, as amended (15 U.S.C. 637(b)(13))."

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
NATIONAL ADVISORY COUNCIL
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			4.5	$ 265
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +2		
Annualization of FY 1990 3.6% pay raise	-	+2		
Extra day............................	-	+1		
Subtotal, adjustments to base and built-in changes.........................			-	+5
FY 1991 Base...............................			4.5	270
Program Changes:				
No changes			-	-
FY 1991 Request			4.5	$ 270

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
NATIONAL ADVISORY COUNCILS
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $144,000. For 4.5 Full-Time Equivalent Positions.

12. Personnel Benefits - $20,000. $7,000 for direct contribution to FERS retirement funds; $13,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $100,000. Travel for Central Office staff at $175 per day.

24. Printing and Reproduction - $2,000. For miscellaneous printing and reproduction.

25. Other Services - $1,000. For miscellaneous other contractual services.

26. Supplies and Materials - $3,000. For office supplies and materials.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
NATIONAL ADVISORY COUNCIL
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$108	$119	$125	$125	$139	$144
Benefits	12	13	16	18	20	20
Travel	55	91	108	90	100	100
Transportation	-	-	-	-	-	-
Rents & Comm.	-	-	-	1	-	-
Printing	2	1	3	-	2	2
Other Services	4	4	9	4	1	1
Supplies	-	1	-	-	3	3
Equipment	-	-	-	-	-	-
Total	$181	$229	$261	$238	$265	$270
FTE	3.5	3.6	4.3	4.2	4.5	4.5

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
SMALL BUSINESS DEVELOPMENT CENTERS

HIGHLIGHT:

The Small Business Development Center (SBDC) program, through linking the resources of Federal, State, and local governments with the private sector, provides management and technical assistance to the small business community.

Having close ties with higher education, the SBDC's are able to assist small business in areas where labs or research facilities are needed in addition to business management assistance.

In this way, the Small Business Development Center program has played a major role in delivering on the Agency's commitment to provide management and technical assistance, training, as well as economic development to existing and prospective small businesses.

In FY 1991, as in the past, the Small Business Development Center program will continue to provide quality service to small business communities across the country. Also, during this fiscal year, continued emphasis will be placed on improving management controls, reporting procedures, and monitoring and oversight responsibilities.

The centers are currently located in 49 states and have a network of subcenters that total over 600. By FY 1991, it is anticipated that all 50 states will have small business development centers. During FY 1989, SBDC's counseled over 169,000 cases and had over 11,439 training units. It is anticipated that these numbers will increase by 10% in FY 1990 and continue to increase.

The FY 1991 request is for $30.0 million with anticipation that the resource matching by the schools will continue to be higher than the current 1.25 to 1 ratio. Federal contributions to this program originally were intended only as a seed money. With the continuing increase in matching resources, we propose to complete a phase-out of this program by the end of FY 1992. The program is expected to be fully financed from private funds by FY 1993.

OBJECTIVES:

- To prepare a report on the need and costs of developing a SBI at every SBDC, and to extend the program to every university.
- To improve the quality and provide more direction to SBDC's.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SPECIAL PROGRAMS
SMALL BUSINESS DEVELOPMENT CENTERS
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ In Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			10.0	$50,069
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +13		
Annualization of FY 1990 3.6% pay raise	-	+5		
Extra day............................	-	+2		
Benefits related to above.............	-	+2		
Subtotal, adjustments to base and built-in changes.........................			-	+22
FY 1991 Base...............................			10.0	50,091
Program Changes:				
SBDC program			-	-19,338
FY 1991 Request			10.0	$30,753

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SMALL BUSINESS DEVELOPMENT CENTERS
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $563,000. For 10.0 Full-Time Equivalent Positions.

12. Personnel Benefits - $82,000. $35,000 for direct contribution to FERS retirement funds; $47,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $90,000. Travel for Central Office staff at $175 per day.

24. Printing and Reproduction - $1,000. For miscellaneous printing and reproduction.

25. Other Services - $10,000. For miscellaneous other expenses.

26. Supplies and Materials - $5,000. For office supplies and materials.

31. Equipment - $2,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

41. Grants - $30,000,000. For SBDC grants.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SMALL BUSINESS DEVELOPMENT CENTERS
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$ 414	$ 438	$ 430	$ 530	$ 543	$ 563
Benefits	43	48	47	59	80	82
Travel	142	100	87	84	90	90
Transportation	-	-	-	-	-	-
Rents & Comm.	-	-	-	-	-	-
Printing	-	1	1	-	1	1
Other Services	17	1	213	260	10	10
Supplies	-	-	-	-	5	5
Equipment	-	4	-	-	2	2
Grants	30,025	32,701	39,337	44,908	49,338	30,000
Total	$30,641	$33,293	$40,115	$45,841	$50,069	$30,753
FTE	9.6	9.9	9.8	10.1	10.0	10.0

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
SUMMARY

Management and Administration includes six functional units that encompass internal management and administration at the Small Business Administration. These include:

1. Equal Employment Opportunity and Compliance
2. Comptroller
3. Administration
4. Personnel
5. Program Analysis and Review
6. Information Resources Management

The following page delineates summary data for all six units, including aggregated personnel and administrative expense data. Subsequent pages contain details for each of the six units included in Management and Administration.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
SUMMARY
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			444.6	$75,658
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +196		
Annualization of FY 1990 3.6% Pay Raise	-	+160		
Additional positions and annualization of existing positions................	+5.0	+66		
Extra Day..............................	-	+60		
Employee Compensation Fund.............	-	-56		
Benefits related to above..............	-	+80		
Increase for Other Rentals.............	-	+60		
Reduction in FTS.......................	-	-2,079		
Subtotal, adjustments to base and built-in changes..........................			+5.0	-1,513
FY 1991 Base................................			449.6	74,145
Program Changes:				
Increase for new computer..............			-	+3,500
Increase for Agency move...............			-	+4,189
Increase for NFC cross-servicing.......			-	+311
FY 1991 Request			449.6	$82,145

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
SUMMARY
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$12,693	$13,221	$14,718	$15,367	$16,399	$16,881
Benefits	2,870	3,176	3,592	3,815	4,098	4,122
Travel	431	542	880	1,282	916	916
Transportation	35	36	22	160	72	472
Rents & Comm.	31,660	29,350	31,396	32,442	41,329	40,709
Printing	309	389	483	463	273	273
Other Services	8,946	10,779	11,008	11,000	11,194	15,655
Supplies	578	538	736	1,106	601	601
Equipment	1,067	4,271	2,444	2,570	776	2,516
Total	$58,589	$62,302	$65,279	$68,205	$75,658	$82,145
FTE	405.0	427.2	445.3	434.5	444.6	449.6

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
EQUAL EMPLOYMENT OPPORTUNITY AND COMPLIANCE

HIGHLIGHT:

The Office of Equal Employment Opportunity and Compliance (EEO&C) has the responsibility of monitoring, evaluating, and enforcing the provisions of Title VI and VII of the Civil Rights Act of 1964, as amended, the Equal Employment Opportunity Act of 1972, as amended, the Equal Credit Opportunity Act, as amended, and Regulation B, Sections 501 and 504 of the Rehabilitation Act of 1974, as amended, Title VIII of the Civil Rights Act of 1968, Title IX of the Education Amendment Act of 1972, the Age Discrimination Act, Public Law 92-261, and other laws, executive orders and regulations, which assure nondiscrimination on the basis of race, color, religion, sex, marital status, national origin, handicap or age.

OTHER INFORMATION:

The Office of Equal Employment Opportunity (EEO) monitors the progress and effectiveness of the EEO program by requiring quarterly EEO assessment reports from each of the 10 SBA regional offices and the headquarters' program offices. Semi-annually, the offices are evaluated on the progress made and deficiencies identified. In addition, periodic on-site evaluations are conducted, generally in coordination with Personnel Management Improvement Surveys. The evaluation includes interviews with EEO personnel and a cross-section of supervisors/managers, and employees. Also, the office develops the Agency affirmative action plan and monitors its implementation; adjudicates EEO complaints filed by Agency employees and applicants for employment; and conducts EEO training courses throughout the Agency for managers, supervisors and employees.

The Central Office Duty Stations (field staff) of the Office of Civil Rights Compliance (OCRC) monitors compliance with the various civil rights laws, regulations and executive orders by conducting on-site compliance reviews of recipient businesses, SBA program and disaster offices, and conduits of SBA's monies to the public. Upon request OCRC will conduct investigations of allegations of discrimination against recipients or the Agency. Civil Rights technical assistance is also rendered to members of the small business community requesting this service.

The Central Office staff of OCRC, in addition to its management and administrative functions, receives, acknowledges and evaluates complaints of discrimination lodged against the Agency and its personnel by members of the public and against recipients, determines compliance in complaint investigations, and recommends and attempts to achieve corrective actions in cases of noncompliance.

OBJECTIVES:

The EEO&C objectives include issuing proposed dispositions within 180 days and conducting statistical analysis to determine the trends and causes of complaints. Increasing the EEO&C workload indicator to the desirable levels will help SBA meet its statutory and regulatory requirements. The accomplishment of these objectives could result in large dollar savings for SBA, and eliminate complaints.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
EQUAL EMPLOYMENT OPPORTUNITY AND COMPLIANCE
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			38.1	$2,162
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +20		
Annualization of FY 1990 3.6% Pay Raise	-	+16		
Extra day.............................	-	+6		
Benefits related to above.............	-	+6		
Subtotal, adjustments to base and built-in changes........................			-	+48
FY 1991 Base..............................			38.1	2,210
Program Changes:				
No change.............................			-	-
FY 1991 Request			38.1	$2,210

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
EQUAL EMPLOYMENT OPPORTUNITY AND COMPLIANCE
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $1,714,000. For 38.1 Full-Time Equivalent Positions.

12. Personnel Benefits - $250,000. $97,000 for direct contribution to FERS retirement funds; $153,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $96,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

24. Printing and Reproduction - $10,000. For printing and reproduction of miscellaneous Agency forms, letterheads, S.O.P.'s, envelopes, etc.

25. Other Services - $114,000. $100,000 for contract investigations; $14,000 for steno service, transcripts, training and other miscellaneous contractual services.

26. Supplies and Materials - $22,000. For office supplies and materials.

31. Equipment - $4,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
EQUAL EMPLOYMENT OPPORTUNITY AND COMPLIANCE
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$1,280	$1,381	$1,514	$1,608	$1,672	$1,714
Benefits	138	176	209	239	244	250
Travel	78	84	57	82	96	96
Transportation	-	7	3	-	-	-
Rents & Comm.	-	-	-	-	-	-
Printing	13	6	1	1	10	10
Other Services	105	110	117	111	114	114
Supplies	3	7	6	9	22	22
Equipment	-	2	28	136	4	4
Total	$1,617	$1,773	$1,935	$2,186	$2,162	$2,210
FTE	35.3	36.3	39.5	40.5	38.1	38.1

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
COMPTROLLER

HIGHLIGHT:

The Office of the Comptroller is primarily responsible for the financial management of the Agency. This includes planning, budgeting, accounting, administrative payments, financial systems analysis and development, and employment ceiling control.

OTHER INFORMATION:

The Office of the Comptroller's functions include:

- Developing and coordinating the Agency's budget administration and planning operations.
- Maintaining and operating the Agency's loan and administrative accounting systems.
- Reporting on and providing control over all Agency funds and assets.
- Providing an integrated collection and payment system for all loan and administrative activities.
- Maintaining and updating Agency accounting policies and operating procedures and manuals.
- Processing loan disbursements, and other miscellaneous loan and administrative expenses in a timely and efficient manner.
- Collecting monthly data on Agency employment for ceiling controls and making recommendations to the Administrator and the Office of Personnel.
- Aiding in the development and updating of computer reports and Agency procedures and manuals.
- Providing timely responses to requests and questions of Agency past and present program accomplishments from OMB, members of Congress, private interest groups, etc.
- Conducting in-depth studies of the administrative accounting system and take appropriate measures to adopt significant conclusions.
- Designing and implementing system changes to further the Agency control processes as they relate to obligations and expenditures.

The Agency operates from five funds, four of which are revolving funds. These are extremely complex in nature and provide for the administration of billions of dollars in loans and contracts. The Agency's active portfolio of over 240,000 loans requires continual accounting adjustments involving millions of transactions and dollars annually. In FY 1989, the Office of the Comptroller processed approximately 3,000 guaranty purchases, 8,000 loan documents, 91,000 administrative vouchers, 22,000 loan disbursements and tens of thousands of miscellaneous accounting documents and administrative expenses. Also, collections received in the form of loan repayments and other receipts totaled approximately $1.5 billion, and the number of transactions processed totaled approximately $2.3 million.

OBJECTIVES:

The major objectives of the Comptroller's office include:

* Redesigning the Administrative Accounting System.

* Redesigning the Accounting Process for Care and Preservation of Collateral (CPC's).

* Redesigning the Accounting Process for Journal Vouchers.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
COMPTROLLER
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			165.3	$7,708
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +62		
Annualization of FY 1990 3.6% Pay Raise	-	+50		
Annualization of existing positions....	+1.0	+13		
Extra day...............................	-	+19		
Benefits related to above..............	-	+24		
Subtotal, adjustments to base and built-in changes.........................			+1.0	+168
FY 1991 Base..............................			166.3	7,876
Program Changes:				
No change..............................			-	-
FY 1991 Request			166.3	$7,876

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
COMPTROLLER
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $5,320,000. For 166.3 Full-Time Equivalent Positions.

12. Personnel Benefits - $750,000. $294,000 for direct contribution to FERS retirement funds; $456,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $50,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

24. Printing and Reproduction - $82,000. For printing and reproduction of miscellaneous Agency forms, letterheads, S.O.P.'s, envelopes, etc..

25. Other Services - $1,475,000. $340,000 for credit reports used in connection with the evaluation of Agency programs; $200,000 for Administrative Accounting contract; $650,000 for A-127 reviews and accounting and policy related contracts; $80,000 for maintenance and repairs of machines; $15,000 for miscellaneous key punching services; and $190,000 for other miscellaneous contractual services.

26. Supplies and Materials - $175,000. For office supplies and materials.

31. Equipment - $24,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
COMPTROLLER
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$4,088	$4,169	$4,651	$4,784	$5,176	$5,320
Benefits	446	494	633	719	726	750
Travel	46	25	35	68	50	50
Transportation	-	-	-	2	-	-
Rents & Comm.	-	-	-	30	-	-
Printing	84	9	28	13	82	82
Other Services	1,001	1,766	1,071	1,009	1,475	1,475
Supplies	73	66	72	114	175	175
Equipment	60	601	746	335	24	24
Total	$5,798	$7,130	$7,236	$7,074	$7,708	$7,876
FTE	140.7	159.2	161.6	156.1	165.3	166.3

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
ADMINISTRATION

HIGHLIGHT:

The Assistant Administrator for Administration (AA/A) directs the Offices of Administrative Services and Procurements and Grants Management and serves as SBA's Internal Procurement Executive.

The Office of Administrative Services (OAS) is composed of the Administrative Information Branch (AIB), Facilities Management Branch (FMB), Office Services Branch (OSB), and the SBA Warehouse. The principal functions of OAS include Agencywide policies, procedures, and programs for and Central Office operations of: supplies, warehousing, shipping, receiving, and distribution; property and property inventory systems; voice communications; space acquisition and utilization; systems furniture; physical security; safety; records and library management; the emergency preparedness and vital records programs; maintenance of all Agency policies and procedures in the SBA directives system; forms and reports management; the annual Information Collection Budget (ICB) to control the paperwork burden on the public; tort claims against the Agency; facsimile equipment and systems; mail management; printing; copiers; and liaison with OMB, GSA, GPO, USPS, and NARA.

The Office of Procurement and Grants Management (OPGM) is composed of three branches: Contracts; Grants and Cooperative Agreements; and Small Purchases. These branches account for the entire procurement needs of the Agency, both administrative and program. The Contracts and Grants Branches enter into Agency procurement actions that are generally of a complex and sophisticated nature; the Small Purchase Branch handles acquisitions under $25,000.

OTHER INFORMATION:

The Assistant Administrator for Administration continues to work with the program offices in Central Office to provide an improved working environment. The staff works closely with field offices in all program areas. In the past year, assistance has been given to all ten regions in relocations and systems furniture installations. Systems furniture has proven to pay off in a short time, by reducing space, and improving morale and productivity. SBA achieved the GSA goal of 135 square feet utilization rate per employee two years ahead of schedule.

The goal of updating Agency SOP's is a top priority, and emphasis on full implementation of Regional Directives Systems is important to a comprehensive, integrated, current directives system for all of SBA. For the FY 1989 ICB, the Agency reported achievement of 17% of the 20% burden reduction goal set by OMB by FY 1990. Warehouse inventory systems improvements occurred with better stocking and distribution control now fully operational and decreased staff time devoted to ordering and obtaining stocked items. The Procurement Career Management Program continues to be quite successful. With great effort the number of permanently warranted contracting officers in MSB has over the last three years been increased from 25% to 75%. Also, what we believe to be the first government procurement ethics training program has been developed with over 200 employees already trained and 200 more scheduled for FY 1990.

The FY 1989 Mail Management Improvement Initiative and training provided by OAS to all ten regions has successfully reduced mail expenditures Agencywide, providing a first-year payback on the purchase of meter equipment. The new emphasis on better outreach and external communications heightens the necessity for a major effort to improve Agency mailing lists, adapt automated lists to ZIP Plus Four to achieve further savings, establish Regional bulk mailing contracts, and improve distribution systems. The Administration staff will continue to work closely with the Central Office program offices in an effort to improve Cosponsorships by focusing on improving mailing practices and reducing costs.

The majority of Central Office is housed in a less than adequate facility on a lease extension due to expire in March, 1991. Coupled with this, is the fact that the headquarters is located in six different locations within the city and nearby Virginia. This situation provided the opportunity for consolidation in one new location. GSA recompeted the lease, and the successful offeror was J.P. Kennedy Enterprises. The new site is under construction at 409 3rd Street, S.W., above the Federal Center, S.W., Metro stop.

OBJECTIVES:

- To ensure a successful Agency relocation.
- To make better and more efficient use of field equipment.
- To implement the credit card program for small purchases.
- To review all publications to ensure adherence to Agency standards.
- To review existing SOP's and assess the need for revision.

FY 1991 INITIATIVES:

1. This budget includes the relocation of the SBA Central Office, anticipated to begin about October 1990, and continue through March 1991. During this transition, multiple offices will be occupied. Therefore, this request provides for "dual" rent during this period. This cost, plus the other costs associated with relocation (transportation, miscellaneous contracts, equipment, etc.) are estimated at $4,189,000.

2. This budget includes 4 additional FTE's for the Office of Procurement and Grants Management (OPGM). This increase is necessary to provide the efficiency required to monitor and procure all of the Agency's contracts and grants. Over the past five years the number of SBDC grants have increased from 15 to the current level of 54. 7(j) activity has also increased significantly as well as awards for women and minority businesses. The total increase is well over 80%. In addition, contracts have shown a steady workload increase averaging an annual growth rate of 11% and the small purchases function reflects an annual growth rate of 26%.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
ADMINISTRATION
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			73.4	$44,850
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +29		
Annualization of FY 1990 3.6% Pay Raise	-	+24		
Additional positions and Annualization of existing positions................	+4.0	+53		
Extra day............................	-	+9		
Employee Compensation Fund............	-	-56		
Benefits related to above.............	-	+21		
Increase for Other Rentals............	-	+60		
Reduction in FTS......................	-	-2,079		
Subtotal, adjustments to base and built-in changes.........................			+4.0	-1,939
FY 1991 Base..............................			77.4	42,911
Program Changes:				
Increase for Agency move (Wash., DC)...			-	+4,189
FY 1991 Request			77.4	$47,100

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
ADMINISTRATION
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $2,557,000. For 77.4 Full-Time Equivalent Positions.

12. Personnel Benefits - $1,682,000. $140,000 for direct contribution to FERS retirement funds; $248,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, CSRS retirement funds, and $1,294,000 for payments to employee's compensation fund.

21. Travel and Transportation of Persons - $25,000. Travel for Central Office staff at $175 per day.

22. Transportation of Things - $420,000. For movement of household goods in connection with employee relocation.

23. Rents, Communications, and Utilities - $37,709,000. $24,399,000 for GSA space; $3,821,000 for FTS; $4,507,000 for postage and fees; $2,800,000 for local telephone costs; $250,000 for long distance telephone costs; $80,000 for teletype services; $1,000,000 for data lines; $300,000 for duplicating equipment; $250,000 for word processing rentals; $75,000 for Advocacy hotline; $32,000 for utility services; and $195,000 for miscellaneous other rentals.

24. Printing and Reproduction - $80,000. For printing and reproduction of miscellaneous Agency forms, letterheads, S.O.P.'s, envelopes, etc..

25. Other Services - $2,487,000. $400,000 for micrographics contract (Navy Yard); $300,000 for labor, electrical work and alterations; $350,000 for repair and maintenance of machines; $125,000 for first aid facilities; $200,000 for guard service; $65,000 for Agency's share of Consumer Information service; $55,000 for courier service; $30,000 for locksmith services; $40,000 for parking facilities; $30,000 refinishing and refurbishing of furniture; $125,000 for moving and storage services; $95,000 for construction services; $650,000 for Agency move; and $22,000 for training, conference fees and other miscellaneous contractual services.

26. Supplies and Materials - $250,000. For office supplies and materials.

31. Equipment - $1,890,000. For replacement of miscellaneous items of office equipment and procurement of modular furniture, personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
ADMINISTRATION
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$2,241	$2,325	$2,312	$2,327	$2,442	$2,557
Benefits	1,520	1,570	1,578	1,647	1,717	1,682
Travel	69	62	38	48	25	25
Transportation	30	20	12	133	20	420
Rents & Comm.	27,343	27,204	29,120	30,255	38,329	37,709
Printing	159	329	436	430	80	80
Other Services	1,595	1,755	1,926	2,072	1,837	2,487
Supplies	304	303	466	545	250	250
Equipment	552	894	320	986	150	1,890
Total	$33,813	$34,462	$36,208	38,443	$44,850	$47,100
FTE	80.8	79.0	77.1	73.5	73.4	77.4

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
PERSONNEL

HIGHLIGHT:

The Personnel office provides policy direction and coordination of SBA personnel programs, as well as operating personnel services to the Central Office. Agencywide programs administered include classification and position management, staffing, training, payroll, executive and managerial development, Labor and Employee relations, Senior Executive Service and performance management.

OTHER INFORMATION:

The Centralized training program provides the Agency the ability to uniformly train SBA's personnel in major program areas. This program provides basic as well as advanced skills training for the purpose of enhancing consistency, quality and productivity improvement throughout the Agency's various programs.

OBJECTIVES:

* To provide basic skills, refresher training and advanced skills to program specialists in SBA's major program areas for the purpose of enhancing consistency, quality and productivity improvement in program operations.

* To improve the performance systems by eliminating unnecessary paperwork, fully implementing legal or regulatory changes, and improving management's use of the systems to reward good performance, to effectively deal with poor performance and to assure appropriate linkage with other personnel actions and Agency goals.

* To maintain a staffing program designed to recruit and place high potential trainees in mainstream occupations and to recruit other skilled individuals for Agency positions.

* To provide first and second-line supervisors with training and reinforcement in managerial skills to improve their productivity and that of their organizations.

* To improve upon the timeliness with which Central Office staffing actions are completed.

* To improve developmental opportunities for incumbent Senior Executives and to have a cadre of well developed and qualified candidates to be placed into SES, District Director and other key managerial positions.

- Administration and promotion of an effective Suggestion and Incentive Awards Programs to increase efficiency and productivity.
- To assure adequate systems are in place to evaluate the quality of the Agency's personnel management program.
- To assure effective administration of the Agency's integrated personnel/payroll processing and information system through cross servicing with the National Finance Center (NFC).
- To strengthen and maintain an effective positions management and classification program.

FY 1991 INITIATIVES:

This budget includes the cross-servicing arrangement with the NFC for the personnel and payroll systems of the SBA. We anticipate this arrangement, which began in FY 1990, to continue into FY 1991 and $700,000 has been included in this activity to support this initiative.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
PERSONNEL
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			58.9	$4,640
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +26		
Annualization of FY 1990 3.6% Pay Raise	-	+21		
Extra day..............................	-	+8		
Benefits related to above..............	-	+9		
Subtotal, adjustments to base and built-in changes........................			-	+64
FY 1991 Base............................			58.9	4,704
Program Changes:				
Increase for NFC cross servicing.......			-	+311
FY 1991 Request			58.9	$5,015

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
PERSONNEL
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $2,177,000. For 58.9 Full-Time Equivalent Positions.

12. Personnel Benefits - $707,000. $129,000 for direct contribution to FERS retirement funds; $578,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes and CSRS retirement funds.

21. Travel and Transportation of Persons - $456,000. $350,000 for travel for centralized employee training; $106,000 for Central Office staff travel at $175 per day.

24. Printing and Reproduction - $20,000. For printing and reproduction of miscellaneous Agency forms, letterheads, S.O.P.'s, envelopes, etc..

25. Other Services - $1,590,000. $850,000 for centralized employee training; $700,000 for the NFC; $18,000 for employee counseling; and $22,000 for other miscellaneous contractual services.

26. Supplies and Materials - $50,000. For office supplies and materials.

31. Equipment - $15,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
PERSONNEL
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$1,359	$1,537	$1,749	$1,933	$2,122	$2,177
Benefits	378	482	602	565	698	707
Travel	201	324	527	868	456	456
Transportation	2	-	4	21	-	-
Rents & Comm.	-	-	-	187	-	-
Printing	21	10	16	18	20	20
Other Services	291	285	711	955	1,279	1,590
Supplies	56	39	38	129	50	50
Equipment	20	299	137	330	15	15
Total	$2,328	$2,976	$3,784	5,006	$4,640	$5,015
FTE	45.7	51.2	53.8	54.1	58.9	58.9

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
PROGRAM ANALYSIS AND REVIEW

HIGHLIGHT:

The Office of Program Analysis and Review (OPAR) is responsible for coordinating the Agency's internal controls pursuant to OMB Circular A-123 and for coordinating its responsiveness to OMB Circulars and such other initiatives as user fees, productivity improvement, etc.

The Office directs, executes and monitors the SBA Computerized Internal Control Review (CICR) system to ensure a prompt, results-oriented measure of field office compliance with internal controls. Emphasis is placed on those controls pertaining to waste, loss, unauthorized use or misappropriation.

In an effort to improve Agency uniformity, accountability and program credibility, OPAR has responsibility for the Computerized Internal Control Review System, including the conduct of yearly reviews of district and regional office programs. Further, a series of quality assurance reviews are planned to insure that corrective actions are taken.

OPAR also reviews disaster area offices to evaluate the various internal controls in the business and home disaster loan programs, as well as conducting periodic reviews of other program areas. Finally, the office conducts special studies at the request of the Administrator, Deputy Administrator, and the Associate Deputy Administrator for Management and Administration and provides technical guidance and assistance to Agency personnel in the conduct of other studies.

OBJECTIVES:

The objectives of OPAR will be to continue coordinating the Agency's efforts under the Reform '88 Program; and increase quality assurance reviews at SBA field offices to ensure quality and consistency of CICR reviews. Additionally, OPAR will coordinate central office and field personnel for CICR system oversight; and develop statistical analyses of program trends for central office and regional planning.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
PROGRAM ANALYSIS AND REVIEW
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			22.7	$1,872
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +13		
Annualization of FY 1990 3.6% Pay Raise	-	+11		
Extra day.............................	-	+4		
Benefits related to above..............	-	+5		
Subtotal, adjustments to base and built-in changes.........................			-	+33
FY 1991 Base..............................			22.7	1,905
Program Changes:				
No change.............................			-	-
FY 1991 Request			22.7	$1,905

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
PROGRAM ANALYSIS AND REVIEW
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $1,137,000. For 22.7 Full-Time Equivalent Positions.

12. Personnel Benefits - $164,000. $63,000 for direct contribution to FERS retirement funds; $101,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $159,000. Travel for Central Office staff at $175 per day.

24. Printing and Reproduction - $6,000. For miscellaneous printing and reproduction.

25. Other Services - $428,000. $245,000 for Reform '88 and other management initiatives; $150,000 for computer maintenance and computer enhancements for the Computerized Internal Control Reviews (CICR); $30,000 for the President's report; and $3,000 for other miscellaneous contractual services.

26. Supplies and Materials - $6,000. For office supplies and materials.

31. Equipment - $5,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
PROGRAM ANALYSIS AND REVIEW
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$791	$770	$983	$1,045	$1,109	$1,137
Benefits	82	82	132	167	159	164
Travel	15	13	203	160	159	159
Transportation	-	-	2	4	-	-
Rents & Comm.	-	-	-	1	-	-
Printing	-	3	-	-	6	6
Other Services	59	314	604	156	428	428
Supplies	3	7	5	7	6	6
Equipment	12	39	35	82	5	5
Total	$962	$1,228	$1,964	$1,622	$1,872	$1,905
FTE	18.2	17.8	22.2	21.8	22.7	22.7

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
INFORMATION RESOURCES MANAGEMENT

HIGHLIGHT:

The Office of Information Resources Management (OIRM) plans, develops, communicates, and coordinates the Small Business Administration's overall automation activity nationwide. In carrying out this program, OIRM:

* Develops and establishes Agency policies and standard operating procedures to effectively strengthen and improve the provision and management of automatic data processing (ADP), data communications, computer systems analysis, microcomputer systems, and office automation within SBA.

* Develops and implements plans, operating procedures, and standards to carry out approved policies.

* Plans, develops, and conducts feasibility studies for the application of ADP, including microcomputers and office automation, and data communications techniques to the programs and operations of the Agency. Develops and maintains such systems for collecting, compiling, and reporting information through the use of ADP and data communications.

* Coordinates with program and staff offices using ADP systems to improve the effective use of ADP and communications resources. Plans and conducts feasibility studies for the acquisition, installation, and operation of ADP equipment, software, data communications, and related peripheral equipment.

* Cooperates with other Federal agencies and ADP equipment manufacturers on advanced technology for the use and maintenance of Agency ADP systems and equipment. Submits reports to other offices and agencies, as required.

* Develops and establishes systems and procedures governing the use of ADP, office automation, and data communications equipment in SBA nationwide. Provides technical and operational advice and support. Coordinates equipment use and management reporting for SBA field activities to ensure compliance with Federal and Agency ADP management standards. Develops and recommends standards for office automation equipment.

* Provides support to all users of the nationwide data communications network by serving as the central point of contact for all hardware, communications, and software problems experienced by network users. Maintains all network components including data terminal equipment installed at user sites.

- Assures the establishment and maintenance of systems that provide for the highest level of validity, accuracy, utility, and completeness of SBA's system of collecting, storing, and retrieving information. Provides final technical review of ADP, office automation, and data communications plans and procedures for SBA nationwide.

- Maintains liaison with other government agencies and private sector organizations to coordinate and promote the interchange of data.

- Plans, directs, administers, and monitors an integrated computer security program, in compliance with P.L. 100-235 and OMB Circular A-130, to ensure the protection of sensitive information and valuable assets maintained on SBA mainframe computer systems, minicomputers, microcomputers, communications, and office automation equipment.

- Formulates Agency computer security policy and standards for the SBA mainframe computer system, telecommunications network, and office automation systems for Central and field offices. Evaluates user compliance with security procedures through periodic examination of controls.

OTHER INFORMATION:

The modernization of the Agency ADP environment has had a significant impact on OIRM. Instead of making a major capital investment in a new SBA mainframe computer, the Agency will acquire ADP services either through a commercial contract or an interagency ADP sharing arrangement. Through this agreement, modern computer services will be made available to Agency information system users. The SBA UNISYS 1100/84 computer will be declared as excess equipment and be disposed of in accordance with GSA regulations. Various contracts for support of the computer system will be terminated.

The ADP Steering Committee establishes priorities for information systems projects. These projects are the primary focus of OIRM activities and uses of resources.

OBJECTIVES:

- To meet the Agency's needs for automation support.

- Modernizing the Agency ADP environment.

- Modernizing, enhancing and maintaining Agency information systems.

- Establishing and maintaining a strategic planning process to assure the quality and responsiveness of IRM programs.

- Improving overall ADP security and enhancing the integrity of automation.

FY 1991 INITIATIVES:

This budget includes resources for the replacement of the Agency's old and outdated mainframe computer. We plan to accomplish a replacement by obtaining computer services through either a commercial contract or a cross-servicing agreement. A Request for Proposal (RFP) was developed in FY 1989. As of the 1st quarter of FY 1990, we have received the competitive bids and are in the process of awarding a contract. The availability for this initiative is $3,500,000.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
INFORMATION RESOURCES MANAGEMENT
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			86.2	$14,426
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +46		
Annualization of FY 1990 3.6% Pay Raise	-	+38		
Extra day..............................	-	+14		
Benefits related to above..............	-	+15		
Subtotal, adjustments to base and built-in changes.........................			-	+113
FY 1991 Base...............................			86.2	14,539
Program Changes:				
Increase for new computer.............			-	+3,500
FY 1991 Request			86.2	$18,039

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
INFORMATION RESOURCES MANAGEMENT
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $3,976,000. For 86.2 Full-Time Equivalent Positions.

12. Personnel Benefits - $569,000. $221,000 for direct contribution to FERS retirement funds; $348,000 for health benefits, group insurance, Medicare hospital insurance, and employers FICA taxes.

21. Travel and Transportation of Persons - $130,000. Travel for Central Office staff at $175 per day.

22. Transportation of Things - $52,000. For movement of household goods in connection with employee relocation.

23. Rents, Communications, and Utilities - $3,000,000. $2,178,000 for telecommunication rentals; $803,000 for ADP rentals; and $19,000 for other miscellaneous rentals.

24. Printing and Reproduction - $75,000. For printing and reproduction of miscellaneous Agency forms, letterheads, S.O.P.'s, envelopes, etc.

25. Other Services - $9,561,000. $2,895,000 for contractor support; $750,000 for the SBADCs network; $821,000 for repair and maintenance of machines; $264,000 for software services; $150,000 for microfilming; $114,000 for database maintenance; $100,000 for Reform '88 and other management initiatives; $50,000 for keypunching services; $75,000 for POLK database; $87,000 for WANG support; $25,000 for labor, electrical work and alterations; $200,000 for contracting out the night shift; $3,500,000 for new computer; $300,000 for miscellaneous studies and services; $101,000 for training conferences and other miscellaneous contractual services; and $129,000 for 1 analyst and 1 communications specialist.

26. Supplies and Materials - $98,000. For office supplies and materials.

31. Equipment - $578,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations including SBADCS terminals and printers, UNISYS network equipment and other equipment upgrades.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
MANAGEMENT AND ADMINISTRATION
INFORMATION RESOURCES MANAGEMENT
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$2,934	$3,039	$3,509	$3,670	$3,878	$3,976
Benefits	306	372	438	478	554	569
Travel	22	34	20	56	130	130
Transportation	3	9	1	-	52	52
Rents & Comm.	4,317	2,146	2,276	1,969	3,000	3,000
Printing	32	32	2	1	75	75
Other Services	5,895	6,549	6,579	6,697	6,061	9,561
Supplies	139	116	149	302	98	98
Equipment	423	2,436	1,178	701	578	578
Total	$14,071	$14,733	$14,152	$13,874	$14,426	$18,039
FTE	84.3	83.7	91.1	88.5	86.2	86.2

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
GENERAL COUNSEL

HIGHLIGHT:

The Office of General Counsel (OGC) provides legal advice and assistance to the Administrator and other key officials on the development and execution of agency policies, programs and administration. It also maintains a competent and productive legal and support staff at headquarters and in the field.

The Office of General Counsel is responsible for drafting, analyzing and interpreting legislation, regulations, and orders relating to the operation of the Small Business Administration; representing the Agency in litigation and administrative proceedings; advising officials as to legal aspects of the development of statutes, regulations, orders, policies and programs; and providing executive direction and support to legal activities carried on in the Central and field offices.

OTHER INFORMATION:

* Provides legal counsel and drafts legislation, regulations and legal instruments for development of policies, operating procedures, and inter-agency agreements relating to business loans, size rules and standards, development and investment companies, Certificates of Competency, liquidation and disposal of property, administration of Agency operations, procurement, the Section 8(a) Program, the Business Development programs and related technical assistance.

* Provides advice to operating officials with respect to processing, closing, servicing and liquidating loans.

* Handles or participates with the Department of Justice in all litigation brought to recover on delinquent loans, other litigation arising under other program activities and suits against SBA and Agency officials.

* Represents the Agency in administrative proceedings brought to enforce compliance with size regulations, SBIC regulations, 8(a) termination proceedings, and applicant representative matters, as well as proceedings brought against the Agency in personnel matters, EEO cases, employee grievances and contracting actions.

* Reviews legislative proposals and develops recommendations for both the Office of Management and Budget and congressional committees; advises management regarding legislative proposals relating to the Small Business Administration.

- Provides support to Central and field office legal staffs, maintains a law library and prepares and periodically issues such resource materials as the Opinion Digest, SBA Attorneys' Handbook and Legislative Handbook.

- Develops and administers nationwide plans for the coordination, review and surveillance of regional and district legal operations.

The Office of General Counsel operates functionally along major program lines as follows:

Immediate Office

The Immediate Office, in addition to providing executive direction to all legal activities of the Agency, maintains a staff to provide support to those activities by maintaining a law library, and preparing and issuing various publications and legal opinions. This office also coordinates the technical supervision and administration of legal operations in the field.

The office drafts legal opinions; provides written opinions and informal advice in response to requests from the various Agency components; performs a variety of special assignments referred by the Administrator; and contributes to the effective management and policy development process.

The needs of the office will increase dramatically when it becomes charged with the responsibility for handling 8(a) eligibility appeals. The 8(a) reform legislation cuts across all divisions of the Office of General Counsel. The effects, as evidenced in the past year, have been enormous due in part to drafting regulations and answering legal questions arising from this wholesale statutory revision. With a right of appeal to OHA on eligibility denials effective in the coming year, the administrative litigation demands are expected to be very heavy. This office must initiate various litigation-type functions, including interviewing and preparing witnesses, drafting various pleadings, and making oral arguments.

Office of Finance and Litigation

This office provides legal counsel to Agency program officials in Washington and the field relating to the processing and administration of the various business loan, disaster loan, pollution control guarantee and surety bond guarantee programs. It also provides the legal counsel essential to the operations of the state and local development company programs. It counsels and advises on all legal aspects relating to the Agency's Small Business Investment Company Program [including the program limited to disadvantaged business (section 301(d) program)], including preparation of regulations and legal opinions on, for example, all proposals for license applications, applications for preferred stock or debenture purchases, change of control, conflicts of interests and mergers.

It further provides counsel and service to the Standards of Conduct Committee. Funding levels have a direct impact on the response time to questions from program officials and the time required in the preparation of documents.

The office also assists in preparation and review of SBA congressional testimony; reviews and assists in the preparation of all Agency proposed orders and regulations; prepares reports and recommendations to Congress and OMB with respect to pending legislation originating in the Agency or elsewhere (when such affects SBA) in government. It serves as the principal SBA office with responsibility for supervisory legal review of existing regulations, policies, practices and actions of various Federal regulatory agencies. It represents SBA at hearings and other proceedings, including adversary proceedings conducted by Federal regulatory agencies on matters affecting the interests, well-being or competitive strength of small business or their opportunities for free entry into business, growth or expansion. It is responsible for final drafting of all Agency regulations.

The office also administers the Agency Regulations Development and Review Program in accordance with the provisions of Executive Orders 12291, 12498, 12630, the Regulatory Flexibility Act, the Paperwork Reduction Act, and the Administrative Procedures Act. Funding levels have a direct impact on the time required to draft documents and analyze legislation. Adequate funding in these areas is critical because of inflexible time frames.

Office of Litigation

This office develops plans, procedures and standards for management of all SBA litigation; obtains and evaluates evidence, prepares complaints, motions, briefs and other pleadings and assists or handles the trial of cases as delegated by the Department; and recommends review or appeal of adverse decisions. SBA attorneys appointed as Special Assistant United States Attorneys conduct litigation involving foreclosures, bankruptcies, renegotiation suits, civil fraud, recovery and judgment enforcement; defend some Federal Tort Claim suits against the Agency; and prosecution of suits in tort on behalf of the Agency; initiate proceedings for collection of fines, penalties and foreclosures.

The office also conducts administrative proceedings to enforce compliance with the Small Business Act and regulations. It seeks the revocation or suspension of the privilege of applicant representatives before SBA. This office seeks the removal of SBIC companies from the program by Federal court action, administrative proceedings or settlement. It represents the Agency in APA hearings concerning the removal of firms from Section 8(a) program eligibility. Finally, the office advises other Agency officials with respect to matters involving litigation; enforces Agency subpoenas; and evaluates criminal history information on applicants for assistance under SBA programs.

All trends indicate a continuing substantial increase in activity and work load in this office. Funding levels will have a direct impact on the level of actual participation in case work as opposed to strict reliance on the Department of Justice, which because of its own staffing shortages relies increasingly on the Agency to shoulder responsibility for significant amounts of litigation and support.

The level of support available to field counsel in connection with collection activity will also be affected. Among the affected levels is stepped up enforcement in the SBIC and 8(a) Program areas including APA hearings involving SBIC license revocations and 8(a) company terminations. The liquidation of SBICs through SBA receiverships has also greatly increased both in terms of the amount of indebtedness owed the Agency, which in many cases is between $10-15 million as well as the complexity of the portfolios to be liquidated.

Currently there are 55 SBICs in SBA receiverships, most of which are being serviced by the Office of Litigation attorneys and Office of Portfolio Management personnel in the Central Office. Some SBIC portfolios have assets valued at $10-15 million and involve a growing number of litigation cases. In this regard, SBA attorneys have undertaken an increasing number of cases seeking damages directly against individuals and companies associated with the licensee for various regulatory violations, breach of fiduciary duty and fraud. Recoveries against these individuals and entities have been in the $1 million to $3 million range. Even greater activity is anticipated this year.

Administrative hearings involving set-off of government benefits against SBA debts also continues to increase as SBA attorneys have become more familiar with this method of debt collection. There is a need to provide greater support to the Department of Justice in order to defend suits against the Agency and to improve recoveries in claim matters, which is a top Administration priority.

New areas of responsibility have also increased the workload. Most importantly among these is the defense of hazardous waste liability determinations by the EPA, where SBA has acquired title to property through foreclosure. During FY 1987 alone, which is the first such year they rose, 20 such cases involving state and Federal authorities were initiated. Also, the number of Pollution Control Bond claims has increased tremendously over the past year. The new regulations dealing with civil program fraud, wherein the Department of Justice can delegate a fraud case of $150,000 or less for administrative hearings, is also expected to generate many cases.

Office of General Law:

This office provides counsel to Agency officials in all administrative and program areas except for the financial programs. Advice is given to program managers and their staffs responsible for the following: procurement assistance programs, including COC; small business set-aside; section 8(d) subcontracting; PASS; various business development programs including Small Business Development Centers (SBDC), SBI, SCORE, ACE, Veterans Affairs, Women's Business Ownership, and International Trade; the Minority Small Business Programs including the Section 8(a) Program and the Section 7(j) Program; the Size Standards Program; the Agency's various personnel programs; Equal Employment Opportunity and Compliance Programs under both Title VII and Title VI of the Civil Rights Act of 1964; and, the Agency's labor relations staff.

The Office of General Law also provides legal advice to the Agency's Freedom of Information Act and Privacy Act Office, the personnel office on matters of payroll, the accounting office on personal property claims, and the Office of the Comptroller on questions of appropriations law.

The office further provides legal representation on behalf of the Agency in all disputes or administrative hearings arising out of those programs areas. Such matters include proceedings before the Merit System Protection Board; the Equal Employment Opportunity Commission; Labor Arbitrators; and the Office of Hearings and Appeals. The office also represents the Agency in contract matters pending before the Comptroller General or the various boards of contract appeals. Another function is the representation of numerous inter-agency task forces and committees, such as the OMB task force to revise OMB Circulars governing non-procurement matters and the drafting subcommittees of the FAR Council.

The workload of this office has increased significantly over the past year, with the expectation that the workload will continue to increase. The number of cases arising out of employee grievances has grown threefold in the past year. Bid protest cases with the Comptroller General continue to rise, and bid protest cases before the various Boards of Contract Appeals have become a workload factor of significance. In the past year, the office intervened in pending size cases at the Office of Hearings and Appeal more than in the prior four years combined. The Labor Relations work in terms of administrative litigation continues to drain staff time at about triple the rate of three to four years ago. Our service on the inter-agency task forces and committees noted above has been needed and valuable, but entails a commitment of resources which will continue at a significant level. There is new legislative authority in the area of Womens' Business Ownership, and new emphasis being placed in the area of International Trade. The office expects an increase in the legal services required to support these important initiatives. The Agency has now in place, regulations implementing new fraud legislation, which will result in a new responsibility to prosecute civil fraud claims before the Office of Hearings and Appeals. Even more significant, in terms of resource demands on the office has been the dramatic increase in legal services needed to support the business development functions in terms of cosponsorship relationships, with a wholesale revamping of the program resulting in a required legal review of all cosponsorships. The staff time needed to assist in replicating high-dollar agreements with national companies, and the staff time needed to assist field counsel with local issues will continue to grow.

Field Legal Operation:

The regional and district counsel plan and coordinate the provision of legal services for the program operations of the field offices, with support and direction for the Central Office. The field counsel provide legal support in loan processing, including loan eligibility and size determinations, loan administration, surety bond guarantees, Certificates of Competency, liquidation and litigation, administration, inter-agency agreements, procurement assistance (including the 8(a) program) and management, as well as other matters relating to SBA operations.

Field counsel close and disburse SBA regular business, displaced business, economic opportunity, disaster, economic injury and development company loans, and participate with district program officials in the review of problem loans and recommends actions concerning such loans. When foreclosure or other liquidation proceedings are necessary to protect the interest of SBA, they make recommendations as to the method of liquidation in accordance with the President's objective of accelerated debt collection.

Field counsel perform the Agency's role in litigation brought to effect maximum recovery on defaulted loans and guarantees (over $600 million in total claims). In cooperation with the U.S. Attorneys and appropriate operating personnel, they negotiate, for the General Counsel's approval, compromises of claims and judgements against Small Business Investment Companies.

Approximately 100 SBA field attorneys have obtained Special Assistant United States Attorney designations and as a result have developed a very effective system for the expeditious handling of SBA debt collection litigation. Counsel works closely with nonlegal Agency officials responsible for generating these cases. There is a strong Agency policy of filing suit in Federal court, developing a favorable body of uniform, Federal precedent.

OBJECTIVES:

- * To provide greater support to the Department of Justice in order to recover on claims matters and defend suits against the Agency. Litigation continues to rise even though the Agency has doubled its recoveries since OMB authorized temporary personnel for this purpose. It is possible that our litigation statistics may peak, but, there will not be any large declines in the numbers.
- * Continuing to overhaul current regulations for many of our programs.
- * Continuing to provide timely legal advice to program managers.
- * To service appeals of 8(a) declines made to the Office of Hearings and Appeals.

FY 1991 INITIATIVES:

This budget includes funds for 18 additional FTE's to provide for the increased workload, in both the Central and field offices, and to provide increased capability to analyze legislation affecting small business. The additional FTE's will also provide for the support of the 8(a) requirements mandated by P.L. 100-656.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
GENERAL COUNSEL
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			319.5	$15,605
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +159		
Annualization of FY 1990 3.6% Pay Raise	-	+129		
Additional positions and Annualization of existing positions................	+18.0	+241		
Extra day............................	-	+49		
Benefits related to above.............	-	+105		
Subtotal, adjustments to base and built-in changes.........................			+18.0	+683
FY 1991 Base..............................			337.5	16,288
Program Changes:				
No Change..............................			-	-
FY 1991 Request			337.5	$16,288

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
GENERAL COUNSEL
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $13,615,000. For 337.5 Full-Time Equivalent Positions.

12. Personnel Benefits - $1,927,000. $806,000 for direct contribution to FERS retirement funds; $1,121,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $211,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

22. Transportation of Things - $20,000. For movement of household goods in connection with employee relocation.

24. Printing and Reproduction - $25,000. For miscellaneous printing and reproduction.

25. Other Services - $180,000. $147,000 for Westlaw computerization; $20,000 for hearings; and $13,000 for steno services, training and other miscellaneous contractual services.

26. Supplies and Materials - $210,000. For office supplies and materials including updating of law libraries..

31. Equipment - $100,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
GENERAL COUNSEL
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$11,626	$11,514	$12,141	$12,590	$13,037	$13,615
Benefits	1,399	1,635	2,038	2,269	1,822	1,927
Travel	211	330	243	347	211	211
Transportation	6	7	2	12	20	20
Rents & Comm.	-	-	-	-	-	-
Printing	37	20	15	34	25	25
Other Services	213	171	233	247	180	180
Supplies	195	150	139	149	210	210
Equipment	21	332	162	12	100	100
Total	$13,708	$14,159	$14,973	$15,660	$15,605	$16,288
FTE	331.6	322.6	327.3	326.0	319.5	337.5

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
HEARINGS AND APPEALS

HIGHLIGHT:

The Office of Hearings and Appeals (OHA) has two functional activities. In its administrative law function it provides due process resolutions of cases in 17 different jurisdictional areas (two additional areas of jurisdiction should be added by October 1, 1990). This office also processes Freedom of Information Act and Privacy Act appeals for the Agency and provides guidance in these areas to other Agency components. The office plays a significant role in the Agency's overall regulatory responsibility and its efforts to improve the effectiveness of SBA's rules and regulations governing its programs. The work covers specific SBA program areas, SBA personnel administration, SBA management-labor relations, borrowers and other applicants for or recipients of SBA assistance or authority to participate with SBA in the lending of such assistance to private sector small business firms. The office serves as an independent consolidated entity with fact-finding and decisional authority in Agency adjudication proceedings and appeals cases. The Office of Hearings and Appeals lends consistency and continuity to Agency actions. It is especially important in affording fairness and due process of law to all parties and in upholding the integrity and public image of the Agency's activities. The office helps to assure that specific programs and regulations, procedures, standards of conduct, Constitutional principles and cases decided by the courts are upheld.

OTHER INFORMATION:

The office was established in 1983 as an independent unit reporting directly to the Administrator. Its major objective is that of providing timely, professional, and fair informal and formal proceedings pursuant to Agency regulations, the Administrative Procedures Act and other applicable statutory and case law in both appeals and cases involving initial determinations.

These proceedings are carried out pursuant to Agency regulations, the Small Business Act, the Small Business Investment Act, the Administrative Procedures Act and the Privacy and Freedom of Information Act in the following areas: size appeals, formal stage Agency grievances, contractor debarment and suspension proceedings, small business investment company enforcement actions, termination of 8(a) program participation, adjudication of complaints of discrimination filed by applicants for or recipients of SBA assistance, revocation of applicant representative's privileges of appearing before SBA, termination or suspension of bank and nonbank lenders, proceedings involving local development companies, internal labor arbitration cases, proceedings involving certified and preferred lenders, the termination or suspension of surety bond program participation, Freedom of Information and Privacy Act appeals, certain grievances involving SBA employees, performance appraisals and such other matters involving factual disputes or sanctioned actions as may be properly brought before the Office of Hearings and Appeals under applicable Agency regulations.

Appeals are initiated by the constituency that this Agency serves and are not controllable by this office. While OHA has experienced growth in numbers of cases handled over the past years there is no reason to expect that this growth will be of such a size that OHA cannot handle it accurately and timely in FY 1991. The budget anticipates moderate expansion of activities.

OBJECTIVES:

The Office of Hearings and Appeals objectives are to render accurate and timely adjudication of matters that are presented to the office. The office anticipates a 15% increase in caseload in FY 1991.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
HEARINGS AND APPEALS
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			16.3	$ 996
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +9		
Annualization of FY 1990 3.6% Pay Raise	-	+7		
Annualization of existing positions....	+1.0	+13		
Extra day..............................	-	+3		
Benefits related to above..............	-	+2		
Subtotal, adjustments to base and built-in changes........................			+1.0	+34
FY 1991 Base..............................			17.3	1,030
Program Changes:				
No Change..............................			-	-
FY 1991 Request			17.3	$1,030

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
HEARINGS AND APPEALS
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $768,000. For 17.3 Full-Time Equivalent Positions.

12. Personnel Benefits - $110,000. $43,000 for direct contribution to FERS retirement funds; $67,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $33,000. Travel for Central Office staff at $175 per day.

24. Printing and Reproduction - $2,000. For miscellaneous printing and reproduction.

25. Other Services - $48,000. $10,000 for steno services; $38,000 for training and other miscellaneous contractual services.

26. Supplies and Materials - $31,000. For office supplies and materials.

31. Equipment - $38,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
HEARINGS AND APPEALS
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$713	$734	$709	$718	$736	$768
Benefits	77	80	90	98	108	110
Travel	2	1	4	1	33	33
Transportation	-	-	-	1	-	-
Rents & Comm.	-	-	-	1	-	-
Printing	1	6	-	-	2	2
Other Services	5	2	14	15	48	48
Supplies	2	3	11	15	31	31
Equipment	1	4	112	3	38	38
Total	$801	$830	$940	$852	$ 996	$1,030
FTE	18.1	17.9	16.6	16.5	16.3	17.3

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PUBLIC COMMUNICATIONS

HIGHLIGHT:

The Office of Public Communications (OPC) has the principal responsibility for dissemination of information and communications between the Agency and the small business community, news media and the public at large. It contributes to the advocacy role of the SBA in promoting and protecting small business in the free enterprise system, as well as disseminating to the general public and the media, information on SBA's services to small business, including new programs and aids which are established as a result of Congressional legislation or Presidential order.

OTHER INFORMATION:

The functions of OPC include:

- Providing information to the media and the general public about matters affecting small business and SBA activities;
- Providing administrative support in the areas of graphics and design, printing, and editorial assistance for SBA program areas;
- Providing communications policy and recommendations to the Office of the Administrator and other SBA officials.
- Making arrangements for all publications, speakers, publicity and miscellaneous expenses associated with Small Business Week.
- Printing the bi-monthly newsletter, "Network", to assist in communicating the activities and programs of the SBA.

OBJECTIVES:

The principle objectives of OPC include:

- Coordinating policy, preparation and cost of all Agency publications and audio-visual materials for use outside SBA;
- Developing and coordinating a basic public affairs program for field offices;
- Developing and implementing activities for Small Business Week;
- Providing timely information about SBA to the news media trade associations and others;
- Designing, recommending and implementing promotional activities to the SBA Administrator;

- Developing and implementing a comprehensive training program for field information officers;
- Designing and implementing an effective, current program to provide information and materials to the broadcast media.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PUBLIC COMMUNICATIONS
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
(\$ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			19.1	\$1,239
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	\$ +9		
Annualization of FY 1990 3.6% Pay Raise	-	+8		
Extra day.............................	-	+3		
Benefits related to above.............	-	+2		
Subtotal, adjustments to base and built-in changes........................			-	+22
FY 1991 Base..............................			19.1	1,261
Program Changes:				
No Change..............................			-	-
FY 1991 Request			19.1	\$1,261

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PUBLIC COMMUNICATIONS
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $772,000. For 19.1 Full-Time Equivalent Positions.

12. Personnel Benefits - $122,000. $43,000 for direct contribution to FERS retirement funds; $68,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds; and $11,000 for cost of living allowance for employees in covered locations.

21. Travel and Transportation of Persons - $20,000. Travel for Central Office staff at $175 per day.

23. Rents, Communications, and Utilities - $3,000. For miscellaneous rents.

24. Printing and Reproduction - $55,000. For printing information pamphlets, SBA's annual report and other miscellaneous printing and reproductions.

25. Other Services - $275,000. $129,000 for Creative Services contract; $30,000 for Small Business Week; $25,000 for tape duplications; $20,000 for photographic services; $66,000 for "Network" publication; and $5,000 for other miscellaneous contractual services.

26. Supplies and Materials - $9,000. For office supplies and materials.

31. Equipment - $5,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
PUBLIC COMMUNICATIONS
(\$ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$686	$588	$664	$759	$752	$772
Benefits	84	76	96	117	120	122
Travel	20	24	38	59	20	20
Transportation	-	-	1	-	-	-
Rents & Comm.	10	7	5	8	3	3
Printing	54	120	116	117	55	55
Other Services	213	279	223	422	275	275
Supplies	9	7	22	12	9	9
Equipment	22	33	32	37	5	5
Total	$1,098	$1,134	$1,197	$1,531	$1,239	$1,261
FTE	19.0	15.3	18.1	18.9	19.1	19.1

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
CONGRESSIONAL AND LEGISLATIVE AFFAIRS

HIGHLIGHT:

Congressional and Legislative Affairs (CLA) has two principal functions. The first is to devise and implement a legislative strategy. The second is to provide a focal point for communication with the Congress, both to further the goals of the Small Business Administration and to enable the members of Congress to best serve their small business constituency.

This office assists in the development of the Agency's legislative program, both internally and with the Office of Management and Budget, and to inform the staffs and members of the House and Senate Small Business, Budget and Appropriations Committees regarding the Administration's legislative and budgetary programs on a regular basis.

This office oversees and coordinates Agency participation in Congressional hearings. Also advises and assists Agency leadership in the Central Office and throughout the field organization. This assistance includes, but is not limited to, specific inquiries made by members of Congress, or their staffs, on issues such as personnel, budget, Congressional legislation, appropriations, oversight, hearings, or any other Congressional activities.

OBJECTIVES:

The Office of Congressional and Legislative Affairs will continue to maintain an efficient and effective communications liaison between the SBA, the Congress, and the Office of Management and Budget.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
CONGRESSIONAL & LEGISLATIVE AFFAIRS
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			10.7	$ 554
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +4		
Annualization of FY 1990 3.6% Pay Raise	-	+5		
Extra day............................	-	+2		
Benefits related to above.............	-	+1		
Subtotal, adjustments to base and built-in changes.........................			-	+12
FY 1991 Base..............................			10.7	566
Program Changes:				
No Change............................			-	-
FY 1991 Request			10.7	$ 566

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
CONGRESSIONAL AND LEGISLATIVE AFFAIRS
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $460,000. For 10.7 Full-Time Equivalent Positions.

12. Personnel Benefits - $66,000. $26,000 for direct contribution to FERS retirement funds; $40,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds.

21. Travel and Transportation of Persons - $12,000. Travel for Central Office staff at $175 per day.

24. Printing and Reproduction - $13,000. For miscellaneous printing and reproduction.

25. Other Services - $5,000. For miscellaneous contractual services.

26. Supplies and Materials - $5,000. For office supplies and materials.

31. Equipment - $5,000. For replacement of miscellaneous items of office equipment.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
CONGRESSIONAL AND LEGISLATIVE AFFAIRS
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$399	$479	$393	$399	$449	$460
Benefits	45	62	51	53	65	66
Travel	2	2	1	-	12	12
Transportation	-	-	-	-	-	-
Rents & Comm.	-	-	-	1	-	-
Printing	-	1	-	-	13	13
Other Services	3	9	18	26	5	5
Supplies	5	13	4	3	5	5
Equipment	8	1	1	74	5	5
Total	$462	$567	$468	$556	$554	$566
FTE	10.0	11.3	9.0	9.5	10.7	10.7

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
EXECUTIVE DIRECTION AND FIELD ADMINISTRATION

HIGHLIGHT:

The functions of the Executive Direction and Field Administration are to exercise direction, authority, and control over all SBA programs administered by the Administrator, her Deputy, a small Washington staff, Regional, District and Branch directors and their immediate staffs in the field offices, to conduct certain field administrative support services including budgeting, personnel and office services functions, and to act as a liaison between the small business community and SBA for receipt of complaints, criticisms, and suggestions concerning policies and activities of the Administrator and any other Federal agency.

This unit also serves to develop and recommend small business size standards to the Administrator for promulgation, to consider and take appropriate action on written requests to change existing size standards or establish new size standards, and to conduct industry hearings pertaining to size standards, where deemed appropriate.

This unit also conducts high priority and ad hoc studies on the competitive status and characteristics of small firms, and analyses on sensitive industry issues.

OBJECTIVES:

* Establishment and achievement of Agency goals through the operation of a management by objectives system.

* Improve program delivery through adequate training and private sector resources.

* Improve outreach efforts.

* Improve Small Business Participation in International Trade.

* Expand Opportunities for Women's Business.

* Contribute to Rural Development.

* Strengthen Minority Business.

* Improve the Management and Administration of the Small Business Administration.

FY 1991 INITIATIVES:

This request includes $1 million for mandated and miscellaneous studies required by authorization and/or internal necessity.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
EXECUTIVE DIRECTION & FIELD ADMINISTRATION
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			676.4	$33,345
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +282		
Annualization of FY 1990 3.6% Pay Raise	-	+228		
Extra day...............................	-	+87		
Reduction in Positions (Permanent).....	-50.0	-1,500		
Benefits related to above..............	-	-144		
Subtotal, adjustments to base and built-in changes.........................			-50.0	-1,047
FY 1991 Base............................			626.4	32,298
Program Changes:				
Miscellaneous Studies..................			-	+1,000
FY 1991 Request			626.4	$33,298

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
EXECUTIVE DIRECTION AND FIELD ADMINISTRATION
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $22,217,000. For 626.4 Full-Time Equivalent Positions.

12. Personnel Benefits - $3,439,000. $1,284,000 for direct contribution to FERS retirement funds; $1,788,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, CSRS retirement funds, and $367,000 for cost of living allowance for employees in covered locations.

21. Travel and Transportation of Persons - $880,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

22. Transportation of Things - $100,000. For movement of household goods in connection with employee relocation.

23. Rents, Communications, and Utilities - $3,475,000. $2,000,000 for rental of word processing equipment; $950,000 for rental of duplicating equipment; $150,000 for other rentals; $200,000 for local telephone costs; and $175,000 for long-distance telephone costs.

24. Printing and Reproduction - $170,000. For miscellaneous printing and reproduction, including materials for local conventions, fairs, expositions, miscellaneous forms, letterheads, envelopes, etc.

25. Other Services - $1,617,000. $155,000 for first aid facilities; $120,000 for labor, electrical work and alterations; $125,000 for repair and maintenance of machines; $117,000 for petty cash; $100,000 for training and other miscellaneous contractual services; and $1,000,000 for mandated and miscellaneous studies.

26. Supplies and Materials - $650,000. For office supplies and materials.

31. Equipment - $750,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
EXECUTIVE DIRECTION & FIELD ADMINISTRATION
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$20,977	$20,939	$21,623	$21,923	$23,120	$22,217
Benefits	2,820	3,080	3,781	4,044	3,583	3,439
Travel	1,486	1,676	1,452	1,408	880	880
Transportation	146	101	91	88	100	100
Rents & Comm.	3,754	3,516	2,958	2,176	3,475	3,475
Printing	228	241	246	239	170	170
Other Services	1,565	1,996	2,078	2,606	617	1,617
Supplies	745	869	970	1,198	650	650
Equipment	933	2,664	2,388	4,568	750	750
Total	$32,654	$35,082	$35,587	38,250	$33,345	$33,298
FTE	741.7	722.5	724.9	691.6	676.4	626.4

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
INSPECTOR GENERAL

HIGHLIGHT:

Under the Inspector General Act of 1978, the Office of Inspector General (OIG) is responsible for providing policy direction for audits and investigations relating to Agency programs and operations, and for conducting or coordinating audits and investigations, whether performed by OIG staff or other entities. The OIG is also responsible for detecting fraud and abuse, promoting economy and efficiency, and reporting on such matters to the Congress, Administration, and the Attorney General.

OTHER INFORMATION:

The OIG is composed of the Immediate Office of the Inspector General, the Auditing Division, the Investigations Division, the Counsel Division, the Management and Policy Division, and the Personnel Security Branch within the Investigations Division. To obtain the most impact with relatively limited resources OIG has decentralized its operations to the greatest degree possible. There are currently audit and investigative staff in Atlanta, Chicago, Dallas, New York, Philadelphia, and San Francisco, with an additional audit post of duty in Boston and additional investigative posts of duty in Denver, Kansas City, Los Angeles, and Syracuse. During FY 1989 OIG placed an investigator in Seattle to provide an OIG presence in Region X.

Auditing Division

The Auditing Division performs audits of internal Agency programs and operations, as well as external audits of recipients of SBA financial assistance, including statutorily required biennial examinations of SBIC's, to assess compliance with Agency regulations and other restrictions. During FY 1989, the Auditing Division audited $1.75 billion of Agency funds, issued 266 audit reports, and obtained $11,258,918 in management commitments to recover funds or avoid expenditures.

With the current staffing level OIG has been able to provide adequate coverage in certain areas, at the cost of minimal or virtually nonexistent coverage, of other critical program areas. As a result, significant portions of SBA's portfolio of more than $20.0 billion have not been addressed.

In FY 1988 legislation was enacted which extended the requirement for SBIC examinations to a biennial cycle with a one year extension option. While this development has provided the office with more flexibility to plan audit activities and to shift audit resources to meet changing priorities, the current staffing level will not be adequate to provide critical audit coverage in these areas: (1) addressing significant weaknesses in portfolio and program areas which received minimal coverage in the past; (2) implementing the new statutory requirement for annual audits of all preferred surety bond companies; (3) performing financial management audits, including annual financial statement audits; (4) performing ADP audits; and (5) providing audit assistance to Agency managers involved in SBIC liquidations and refining the SBIC audit program to ensure that CPA audits are performed in accordance with government auditing standards. These areas are discussed in more detail below.

A. Audit Coverage of SBA Portfolio and Programs

At the current level OIG is devoting 36 of the 57 auditor staff years to internal audit work. With these resources they can audit each of the 121 entities in the internal audit universe every 13 years. To use the resources more effectively, they have identified 80 high priority program areas which can be covered on a 10 year audit cycle basis at the current resource level. These priority areas include the minority small business, business loan processing and servicing, and disaster loan programs, as well as programs that have never been audited. Given the nature of these programs and the size of the Agency's portfolio, OIG's goal is to reduce the priority internal audit cycle to 3 years. With the current staffing level, however, they are able to perform only the highest priority audits of SBA programs, including audits requested by other agencies, Congress, and OMB.

Currently, OIG also devotes internal audit resources towards assisting the Agency in implementing internal control systems and other activities pursuant to the Federal Managers' Financial Integrity Act and OMB Circular A-123. This effort requires approximately half of a staff year annually. OIG anticipates that they will need to devote additional resources in this area in the next few years to implement Administration internal control initiatives.

At the current level of staffing OIG can devote 31 auditor staff years to external audits of entities that receive financial assistance from or are licensed by SBA. With these resources they can perform or coordinate audits of approximately 282 entities each year, including 200 SBIC's. This figure is drawn from an external audit universe of approximately 264,220 auditable entities. This universe, representing a portfolio of over $20.2 billion, includes: SBIC's; recipients of contracts, grants, and cooperative agreements; certified development companies; non-bank lenders; surety bond guarantee program participants and claimants; recipients of business and disaster loans; and section 8(a) contracts. The external audits resulted in dollar accomplishments of approximately $237,776 per auditor during FY 1988, and $240,235 per auditor during FY 1989.

Currently, this office is devoting 19 auditor staff years to examining approximately 200 of the 416 licensed SBIC's pursuant to the recently enacted biennial audit cycle. While this represents a significant decrease from the previous level of 28 staff years needed in FY 1989 to complete annual SBIC examinations, the biennial audit requirement and other special SBIC audit assistance requested by program managers will remain a substantial demand on our audit resources. OIG completed 121 SBIC audits during the first half of FY 1989, which resulted in dollar accomplishments of more than $10 million.

The remaining 12 auditor staff years at the current resource level are devoted to critical work in such areas as: (1) providing audit assistance for complex financial investigations; (2) initiating career development/training activities and quality assurance reviews required by professional standards established by the President's Council on Integrity and Efficiency and the General Accounting Office; and (3) completing or coordinating compliance audits requested by Agency managers. In the area of compliance audits, OIG issued 62 audits of $44 million during the first half of FY 1989, including 47 audits performed for use by DCAA and other state and Federal audit agencies, and obtained approximately $600,000 in, sustained costs. The remaining 15 audits of contracts, SBDC's, CDC's, and SBLC's were performed by the audit staff. This represents audit coverage of a fraction of the external audit universe and SBA's total portfolio. Due to limited resources, however, OIG cannot respond to most audit requests from Agency program offices and must limit the audits to those required by regulation or of the highest priority. These audits are critical to improving program integrity, assuring adequate internal controls, and providing assistance to program managers. OIG issued a total of 82 compliance audits during FY 1989.

B. Preferred Surety Bond Company Audits

At the current staffing level OIG has provided minimal audit coverage to the surety bond guarantee program area. This office has not been able to plan any external audits of this program since FY 1983. During FY 1989, SBA's portfolio included approximately 11,238 guarantees involving $1.15 billion in government funds.

Recent legislation has expanded the program by establishing a preferred surety bond guarantee program, and has imposed a requirement that each preferred surety company be audit annually by SBA. While this office will be able to afford some audit coverage (approximately 3 staff years) to this program at the current staffing level, they project that eventually they will need 10 staff years to meet the audit requirement for the 21 companies expected to participate in this program.

C. Financial Management Audits

At the current staffing level OIG is providing minimal audit coverage of Agency financial management systems. The Office of Management and Budget and the General Accounting Office have identified this as an area requiring additional coverage on a government-wide basis. The most recent financial management audit was in FY 1983, when OIG issued two audit reports on SBA's accounting system involving 4.5 auditor staff years. OIG has been unable to plan any audits of SBA's annual financial statements to date. While they should be able to provide some audit coverage of this area through careful management of audit resources and priorities, they estimate that they would need 10 staff years to perform Agency financial statement audits.

D. ADP Audits

OIG is currently providing minimal coverage for automated data processing (ADP) audits, which are strongly recommended by the Office of Management and Budget and the General Accounting Office. The most recent audit in this area was a review of SBA's new system of on-line charge-off procedures for unsecured home disaster loans in FY 1988, which involved 2 staff years of effort. Prior to that, the activity in this area was limited to participation in President's Council on Integrity and Efficiency (PCIE) initiatives on computer security (FY 1983-84) and the payroll system (FY 1985).

E. SBIC Audit Program Refinements

At the current staffing level OIG is able to meet the new biennial SBIC audit requirement. While they were able to meet the new biennial SBIC audit requirement in FY 1989 at their current resource level, there are two additional areas requiring audit attention. First, there has been a dramatic increase in the number of SBIC's being placed in liquidation. This is in addition to the 416 active SBIC's subject to the biennial examination requirement. This increase in inactive companies has made the Agency more susceptible to losses arising out of potential fraud and waste in the liquidation process. OIG estimates that 4 auditor staff years should be devoted to reviewing these companies and providing audit assistance to Agency managers to preserve government assets.

Second, OIG will need to refine their SBIC audit program to comply with government auditing standards recently issued by the General Accounting Office.

A 1988 GAO report found that a number of agency Inspectors General, including the SBA OIG, need to improve their quality assurance reviews of audit work performed by CPAs of SBIC's and CDC's to ensure that such audits are performed in accordance with government audit standards, and that they include assessments of participants' compliance with Agency regulations. It is anticipated that 2 auditor staff years will be necessary for this function.

Investigations Division

The Investigations Division is responsible for handling complex financial, program, and personnel investigations involving SBA employees and recipients. The results of these investigations frequently provide the basis for civil or criminal prosecution, or for administrative action by the Agency. During FY 1989 this office closed 142 cases and obtained $19,551,589 in investigative recoveries and avoidances.

At the current level the investigations staff is handling a case inventory of approximately 347 business loans, business development, disaster assistance, and integrity assurance investigations, including 35 active grand jury matters. This inventory does not includes 120 referrals made to other Federal law enforcement agencies for investigation each year. Because of limited resources this office is unable to handle these referrals which require OIG coordination, investigative assistance, follow-up, and monitoring. During FY 1989, 142 cases were closed. Due to the complexity of many of the investigations, the average amount of time required to close different types of cases can range from 25 to 120 staff days.

To maximize productivity and increase OIG's presence in the field, operations have been decentralized and most of the special agents have been placed in field office locations. Priority has been given to investigating allegations that are most likely to result in indictments, convictions, and dollar recoveries. Civil recoveries resulting from investigations have averaged $500,000 per agent for each of the last three years. With the current staffing level, 48 indictments, 54 convictions, and $19.55 million in avoidances and recoveries, were obtained, inducting judicially awarded fines and restitution, during FY 1989.

Prevention activities are another priority of the investigations staff. Because most of the investigative resources are needed to handle complex cases, these activities have suffered from this office's ability to devote only minimal resources to these important prevention projects. For example, during FY 1986 OIG performed 8 selective operational reviews (SORs) of Agency field offices.

During FY 1987, FY 1988, and FY 1989, however, OIG did not have sufficient resources to continue this necessary activity due to the increase in other matters of higher priority. In the area of standards of conduct (SOC) briefings for SBA employees, OIG was able to make SOC presentations at 60 of SBA's 103 field offices during FY 1986. Since FY 1987, however, they have been forced to curtail this important activity due to restrictions in staffing and travel funds and the staff-intensive demands of handling an increasingly complex caseload. OIG completed 38 briefings in FY 1987, 11 briefings in FY 1988 and 23 briefings in FY 1989. Their goal has been to brief all SBA employees on a 3 year cycle, which would entail approximately 31 SBA offices each year.

Personnel Security Branch

The personnel security branch within the Investigations Division handles the personnel background check and name check program for the Agency, and manages the OIG hotline. During the first half of FY 1989, this unit handled approximately 187 background security investigations of persons selected to occupy sensitive Agency positions.

In addition, this unit processed name checks through the FBI indices for 91,500 loan applications during FY 1989. Based on unfavorable information uncovered during this process, SBA declined loan applications totalling $4,174,435 during that period. Finally, this unit operates the OIG hotline by receiving and screening all calls to determine those that involve allegations of investigative interest, those that should be referred to program offices for resolution, and those that seek basic information about the Agency. During FY 1989 we received and processed 7,689 hotline calls.

Counsel Division

The Counsel Division is responsible for providing independent legal advice to the Inspector General and the other divisions, reviewing proposed legislation, regulations, and standard operating procedures, and processing Freedom of Information/Privacy Act requests for OIG records. This division also assists in handling litigation involving OIG activities.

At the current and requested levels the counsel staff of 5 staff years of which 3 are attorney positions, will handle general legal advice to the Inspector General and OIG staff, reviews of approximately 125 legislative, regulatory, and operating procedure proposals, and 75 FOIA/PA requests. This workload has remained steady since FY 1985, when the division handled approximately 110 legal projects, 142 proposals, and approximately 88 FOIA/PA requests. Approximately 80% of this work is subject to externally-imposed deadlines established by law, the courts, other government agencies, or other SBA offices. Through careful resource and workload management, this division should be able to comply substantially with externally imposed deadlines and handle any increased work generated by the addition of 35 auditors and investigators.

The counsel staff also reviews all IG subpoenas prior to issuance to ensure that all legal requirements are met. The number of such subpoenas requested had risen from approximately 14 in FY 1984 to 30 in FY 1985, 22 in FY 1986, 24 in FY 1987, 92 in FY 1988, and 75 in FY 1989, and it is anticipated that these numbers will remain steady or continue to increase. There has also been a steady increase in the number of grievances, EEO complaints, and lawsuits filed involving OIG activities and records, as well as in the number of internal OIG personnel matters resulting in disciplinary action.

Management and Policy Division

The Management and Policy Division is responsible for enhancing the efficiency of office operations and ensuring continued compliance with professional standards issued by the President's Council on Integrity and Efficiency and the General Accounting Office. This division also manages the OIG's policy, budget, procurement, personnel, planning, and electronic data processing activities.

This unit manages the OIG's policy, personnel, ADP, budget, and procurement activities in accordance with the IG's independent personnel and budget authority.

During the first half of FY 1989, the management and policy staff handled 61 procurement actions, 85 training actions, 91 reports and special projects, 31 staffing actions, and 30 ADP projects. As part of its responsibilities, this staff is also involved in developing and updating written procedures governing OIG operations in accordance with the Federal Financial Managers Integrity Act of 1982. While this staff completed the development of 15 office-wide written policies during FY 1989, they estimate that a minimum of one to two additional staff years is needed to develop procedures in approximately 20 identifiable areas.

OBJECTIVES:

Since its inception in 1979, the OIG has had significant success in obtaining dollar recoveries and administrative, civil, and criminal prosecutions. In order to manage the limited resources most effectively, OIG has identified three continuing office-wide objectives: (1) establishing criteria for handling audits and investigations to emphasize such priorities as recovery of Federal funds and potential for prosecution; (2) promoting professionalism, training, and staff development to continually seek increased efficiency; and (3) increasing the computer capabilities in both administrative and operational areas to catch up with a future which is already upon the office.

FY 1991 INITIATIVES:

This budget reflects an increase in positions, transportation, travel and other services. Beginning in FY 1990 this activity was appropriated funds separate from the remaining S & E activities of the SBA. The increase in FTE positions is requested in order to meet the ever increasing demand for audits and investigations. At the current level OIG is unable to perform the required workload each year. With an average recovery of $500,000 per agent within the Investigation Division, on increase in positions will result in an increase in government savings.

The increase in both travel and other contracts also result from the increase in workload. Current level funding is not sufficient for the workload of this activity. The cost of security investigations is continuing to rise. An increase in transportation is required for OIG staff. In previous years SBA has funded OIG relocations from Agency resources, and as a result our current funding level does not include relocation costs.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
INSPECTOR GENERAL
SUMMARY OF ADJUSTMENTS TO BASE AND BUILT-IN CHANGES
($ in Thousands)

	FTE Positions	Amount	FTE Positions	Amount
Appropriation available in FY 1990:			129.2	$7,400
Adjustments to base and built-in changes:				
FY 1991 3.5% pay raise (50%)...........	-	$ +91		
Annualization of FY 1990 3.6% Pay Raise	-	+55		
Additional positions and Annualization of existing positions...............	+28.0	+1,383		
Extra Day............................	-	+21		
Benefits related to above.............	-	+214		
Subtotal, adjustments to base and built-in changes.........................			+28.0	+1,764
FY 1991 Base.............................			157.2	9,164
Program Changes:				
Increase in Transportation for Relocated Employees..................			-	+200
Increase Travel to meet requirements...			-	+300
Increase in Other Contracts as a result of workload increase................			-	+200
FY 1991 Request			157.2	$9,864

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
INSPECTOR GENERAL
EXPLANATION OF DISTRIBUTION BY OBJECT CLASS (SEE ACTIVITY DATA SHEET)

11. Personnel Compensation and Staffing - $7,010,000. For 157.2 Full-Time Equivalent Positions.

12. Personnel Benefits - $1,110,000. $404,000 for direct contribution to FERS retirement funds; $655,000 for health benefits, group insurance, Medicare hospital insurance, employers FICA taxes, and CSRS retirement funds, and $51,000 for miscellaneous cost of living expenses.

21. Travel and Transportation of Persons - $732,000. Travel for Central Office staff at $175 per day and field office staff at $110 per day.

22. Transportation of Things - $200,000. For movement of household goods in connection with employee relocation.

24. Printing and Reproduction - $15,000. For miscellaneous printing and reproduction.

25. Other Services - $644,000. $135,000 for personnel background checks; $200,000 for contract audits; $309,000 for training and other miscellaneous contractual services.

26. Supplies and Materials - $53,000. For office supplies and materials.

31. Equipment - $100,000. For replacement of miscellaneous items of office equipment and procurement of personal computers and peripherals to aid in office operations.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
INSPECTOR GENERAL
($ in thousands)

Object Class	FY 1986 Actual	FY 1987 Actual	FY 1988 Actual	FY 1989 Actual	FY 1990 Approp.	FY 1991 Request
Compensation	$4,559	$4,910	$5,346	$5,678	$5,460	$7,010
Benefits	543	648	852	810	896	1,110
Travel	370	416	470	431	432	732
Transportation	4	27	20	9	-	200
Rents & Comm.	-	-	-	1	-	-
Printing	25	7	11	3	15	15
Other Services	229	146	164	206	444	644
Supplies	17	65	26	45	53	53
Equipment	15	273	110	209	100	100
Total	$5,762	$6,492	$6,999	$7,392	$7,400	$ 9,864
FTE	119.9	125.4	129.8	133.4	129.2	157.2

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
[INCLUDING TRANSFER OF FUNDS]

For necessary expenses, not otherwise provided for, of the Small Business Administration [as authorized by Public Law 100-590, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, $242,000,000, of which $500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, and of which $500,000 shall be made available for the establishment of a training program at the East-West Center to assist American businessmen and trade delegations in the Pacific Basin, and of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business and of which $50,000,000 is for grants for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: Provided, That not more than $350,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: Provided further, That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C.648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: Provided further, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: Provided further, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, such sums as may be necessary for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund" as authorized by Public Law 100-590.]

including hire of passenger motor vehicles, and not to exceed $2,500 for Official reception and representation expenses, $326,437,000: Proven that revenues received for publications, services, and other assistance shall be credited to this account to be available for necessary expenses incurred to provide for such publications, services and other assistance.

(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990)

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
NARRATIVE STATEMENT ON PROGRAMS AND PERFORMANCE

The Small Business Administration (SBA) provides assistance to small businesses and to victims of physical disasters. These efforts are conducted through the following activities:

1. Finance and Investment - The salaries and related administrative expenses for all SBA financial assistance activities are provided through this appropriation account. Funds for the Agency's guaranteed loan and investment programs are financed through the business loan and investment fund. All guaranteed business financing programs are proposed for consolidation into four programs: General Business Assistance, Development Company Assistance, Minority Investment Company Assistance and Investment Company Assistance. Direct lending will be continued to participants in the Section 8(a) minority business programs. In addition, this submission proposes the increase of guarantee fees to make SBA's programs more self-sufficient. Guarantee fee increases will be lower for the Minority Investment Company financing to provide an additional subsidy. The disaster assistance program administered by this activity and financed through the Disaster Loan Fund is proposed to be reformed by providing assistance only to individuals unable to obtain credit from private lenders. In addition, subsidies will be reduced by increasing the interest rate on disaster loans to the Treasury's cost of borrowing.

2. Procurement Assistance - The programs under this activity are aimed at assuring that small business receives a fair share of Government procurements. In addition, SBA maintains a Procurement Automated Source System, which is used by Federal agencies and prime contractors to identify small businesses for contract opportunities.

3. Minority Small Business and Capital Ownership Development - This activity provides assistance to minority small business concerns-primarily in the area of Federal procurement-and evaluates overall Agency performance in promoting minority business development. The business development program assists in the establishment or expansion of firms that are owned by minority or other disadvantaged business persons and that have the potential to develop into viable competitive businesses in a reasonable period of time. This submission includes additional staff in 1990 and 1991 to carry out program reforms enacted in the Business Opportunity Development Reform Act of 1988.

4. Special Programs - The Associate Deputy Administrator for this function exercises direction over Business Development, Veterans Affairs, Women's Business Ownership, Private Sector Initiatives, International Trade, Small Business Development Centers (SBDCs) and the National Advisory Council. These offices are responsible for

effective management and operational efficiency in assuring that specialized attention and proper emphasis to the emergent need of the small business community are represented. In addition, the Office of Women's Business Ownership will increase its outreach and promotional activities, including demonstration projects authorized by the Women's Business Ownership Act. This submission proposes phasing out Federal contributions to the Small Business Development Center (SBDC) program. Also proposed is reasonable increases in user fees beginning in 1991 for the Business Development program to help offset increased costs associated with a planned increase in dissemination of publications.

5. Advocacy - This office is responsible for the development and implementation of a Small Business Administration Advocacy program, including the representation of small business interests, the analysis of the effects of federal laws, regulation and activity on small business, the development and utilization of a small business data base to aid in this analysis and liaison with small business and small business organizations and the public.

CONSULTING SERVICES:

The Salaries and Expenses appropriation of the Small Business Administration is used to finance those "consulting services" required by the Agency. We have identified specific contracting activity conducted by the SBA that falls within the definition of "consulting services" in OMB Circular A-120. Included in this category are monies requested for Advocacy research contracts, Finance and Investment portfolio studies, and miscellaneous Agency Reform "88 Initiatives continued into FY 1991. These services are needed to supplement Agency efforts in these areas to comply with Administration mandated initiatives. In FY 1991, we estimate that approximately $1,500,000 will be expended for these services.

Our Office of Inspector General has evaluated the use of consulting services within the SBA and prepared their conclusions, as required by Section 1114 of Title 31 of the U.S. Code. These will be forwarded to the Appropriations and Small Business Committee Chairmen under separate cover.

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
(EXCLUDING OFFICE OF INSPECTOR GENERAL)
Program and Financing (in thousands of dollars)

Identification code 73-0100-0-1-376	1989 actual	1990 estimate	1991 estimate
Program by activities:			
Direct program			
1. Finance and Investment.........	51,936	57,628	59,227
2. Disaster Assistance............	19,271	29,603	19,357
3. Procurement Assistance.........	16,815	17,371	18,549
4. Minority Small Business and Capital Ownership Development	23,920	26,581	27,534
5. Innov., Res., and Tech.........	854	1,226	1,240
6. Advocacy.......................	5,769	5,309	5,433
7. Special Programs...............	72,018	79,424	61,509
8. Management and Administration..	68,205	75,658	82,145
9. General Counsel................	15,660	15,605	16,288
10. Hearings and Appeals...........	852	996	1,030
11. Public Communications..........	1,531	1,239	1,261
12. Cong. and Legislative Affairs..	556	554	566
13. Exec. Direction and Field Admin.	38,250	33,345	33,298
14. Inspector General..............	7,392	-	-
Total, direct program.......	323,029	344,539	327,437
Reimbursable program			
(a) Finance and Investment.......	-	-	-
(b) Management and Administration	-	-	-
Total, reimbursable program.	-	-	-
10.00 Total obligations............	323,029	344,539	327,437

Type size
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Case 180
Red underscore
Case 210

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
(EXCLUDING OFFICE OF INSPECTOR GENERAL)
Program and Financing (in thousands of dollars) - Continued

Identification code 73-0100-1-3-376	1989 actual	1990 estimate	1991 estimate
Financing:			
Offsetting collections from:			
11.00 Federal funds................	-	-	-
14.00 Non-Federal sources..........	-	-	-1,000 1/
21.40 Unobligated balance available start of year................	-	-	-
22.40 Unobligated balance transferred from other accounts..2/	-96,669.	-	-
22.40 Unobligated balance available, end of year..................	-	-	-
25.00 Unobligated balance lapsing..	2,130	-	-
39.00 Budget Authority.............	228,490	344,539	326,437
Budget authority:			
40.00 Appropriation................	228,490	242,000	326,437
40.00 Appropriation (adjustment)...	-	-4,621	-
42.00 Appropriation transferred for pay raise and Disaster Asst..3/	-	107,160	-
43.00 Appropriation (adjusted)	228,490	344,539	326,437
Relation of obligations to outlays:			
71.00 Obligations incurred, net....	323,029	344,539	326,437
72.40 Obligated balance, start of year......................	75,000	85,093	87,775
73.40 Obligated bal. transferred, net	-	-	-
74.40 Obligated balance, end of year.........................	-85,093	-87,775	-84,603
77.00 Adjustment in expired accounts......................	-220	-	-
90.00 Outlays......................	312,713	341,857	329,609

1/ Anticipated "user fee" income to help offset a portion of program costs.
2/ Unobligated balance transferred from the Disaster Loan Fund.
3/ The total amount of Budget Authority transferred from the Disaster Loan Fund.

(Memo cast: 22.5) (Memo cast: 8) (Memo cast: 8) (Memo cast: 4.5)

GPO : 1971 O - 443-307

Type size:
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Case 160
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Case 218

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
(EXCLUDING OFFICE OF INSPECTOR GENERAL)
Object Classification (in thousands of dollars)

Identification code 73-0100-0-1-376	19 89 actual	19 90 estimate	19 91 estimate
Personnel Compensation:			
11.1 Permanent positions..........	133,277	136,002	139,174
11.3 Positions other than permanent....................	19,065	8,906	9,175
11.5 Other personnel compensation.	4,200	3,897	3,897
Total personnel compensation.	156,542	148,805	152,246
12.1 Personnel benefits: Civilian.....................	26,914	23,813	24,363
13.0 Benefits for former personnel	306	-	-
21.0 Travel & transportation of persons......................	8,829	6,327	6,327
22.0 Transportation of things.....	492	300	700
23.1 Standard level user charges..	19,773	23,000	24,399
23.2 Rental Payments to others....	4,769	6,817	6,817
23.3 Communications, utilities, and miscellaneous charges........	10,675	15,483	12,971
24.0 Printing and reproduction....	1,437	1,485	1,485
25.0 Other services..............	24,541	26,215	33,679
26.0 Supplies and materials.......	2,883	1,752	1,752
31.0 Equipment....................	10,344	1,982	3,722
41.0 Grants, subsidies and contributions................	55,470	58,957	39,619
42.0 Insurance claims and indemnities..................	18	-	-
43.0 Interest and dividends.......	36	-	-
92.0 Undistributed (Disaster asst.)	-	29,603	19,357
99.0 Total direct obligations.....	323,029	344,539	327,437
99.9 Total obligations............	323,029	344,539	327,437
(Memo cost: [illegible])	(Memo cost: [illegible])	(Memo cost: [illegible])	(Memo cost: [illegible])

Type size
8 point 22 picas
Case 180
Red underscore
Case 228

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
(EXCLUDING OFFICE OF INSPECTOR GENERAL)
Object Classification (in thousands of dollars) - Continued

Identification code 73-0100-0-1-376	19 89 actual	19 90 estimate	19 91 estimate
Reimbursable obligations:			
11.1 Personnel compensation........	-	-	-
12.1 Personnel benefits: Civilian......................	-	-	-
25.0 Other services................	-	-	-
99.0 Total reimbursable obligations...................	-	-	-
99.9 Total obligations.............	323,029	344,539	327,437
(Memo cnt: 21.5)	(Memo cnt: 8)	(Memo cnt: 8)	(Memo cnt: 4.8)

Type size
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Case 150
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Case 310

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
(EXCLUDING OFFICE OF INSPECTOR GENERAL)
Personnel Summary 1/

Identification code 73-0100-0-1-376	1989 actual	1990 estimate	1991 estimate
Total number of permanent positions.	3,836	3,816	3,849
Total compensable work-years:			
Full-time equivalent employment..	4,525	4,012	4,045
Full-time equivalent of overtime and holiday hours................	75	60	60
Average ES salary....................	75,826	$78,480	$79,657
Average GS grade.....................	-	11.00	11.00
Average GS salary....................	35,945	$36,484	$37,031
Average salary of ungraded positions	$18,353	$18,628	$19,007

1/ The personnel summary excludes 1,019 and 569 Full Time Equivalent positions (FTE's) in 1990 and 1991, respectively, above the assigned FTE ceilings for purposes of disaster assistance, and summer and disadvantaged youth employment.

NOTE: FY 1989 Column includes the levels for the Inspector General which is under a separate appropriation beginning FY 1990.

(Memo est: 21.5)	(Memo est: 8)	(Memo est: 8)	(Memo est: 4.8)

Type size:
8 point
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STANDARD FORM 306
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
306-103

SMALL BUSINESS ADMINISTRATION
(EXCLUDING OFFICE OF INSPECTOR GENERAL)

DETAIL OF PERMANENT POSITIONS

	1989 actual	1990 estimate	1991 estimate
Executive Level III	1	1	1
Executive Level IV	2	1	1
Executive Level V	0	0	0
Subtotal	3	2	2
ES-6	3	3	3
ES-5	4	3	3
ES-4	27	25	25
ES-3	6	6	6
ES-2	4	4	4
ES-1	6	6	6
Subtotal	50	47	47
GS/GM-15	175	175	175
GS/GM-14	248	238	228
GS/GM-13	639	639	629
GS-12	853	847	837
GS-11	338	335	335
GS-10	3	3	3
GS-9	243	243	243
GS-8	66	66	70
GS-7	405	408	411
GS-6	246	246	279
GS-5	285	285	298
GS-4	233	233	233
(Mono cast: 10.5)	(Mono cast: 4.8)	(Mono cast: 4.8)	(Mono cast: 4)

GPO : 1988 O - [illegible]

Type size:
8 point
14½ picas
Fol. lit. solid

STANDARD FORM 306
July 1968, Bureau of the Budget
Circular No. A-11, Revised
806-103

SMALL BUSINESS ADMINISTRATION
(EXCLUDING OFFICE OF INSPECTOR GENERAL)

DETAIL OF PERMANENT POSITIONS

	1989 actual	1990 estimate	1991 estimate
GS-3	31	31	41
GS-2	4	4	4
GS-1	-	-	-
Subtotal	3,822	3,802	3,835
Ungraded	14	14	14
Total permanent positions	3,836	3,816	3,849
Unfilled positions end of year	-191	-111	-111
Total permanent employment, end of year	3,645	3,705	3,738
(Mono cast: 16.3)	(Mono cast: 4.9)	(Mono cast: 4.9)	(Mono cast: 4)

Type size:
8 point
16½ picas
lic. solid

STANDARD FORM 306
July 1965, Bureau of the Budget
Circular No. A-11, Revised.
306-102

SMALL BUSINESS ADMINISTRATION
(EXCLUDING OFFICE OF INSPECTOR GENERAL)

DETAIL OF PERMANENT POSITIONS

	1989 actual	1990 estimate	1991 estimate
Executive Level III:			
Administrator	1	1	1
Executive Level IV:			
Chief Counsel for Advocacy	1	1	1
Inspector General	1	-	-
Executive Level V:			
ES-6:			
General Counsel	1	1	1
Deputy Administrator	1	1	1
Associate Deputy Administrator	1	1	1
ES-5:			
Comptroller	1	1	1
Assistant Administrator	1	1	1
Assistant Inspector General	1	-	-
Regional Administrators	1	1	1
ES-4:			
Associate Administrator	3	3	3
Associate Deputy Administrator	1	1	1
Assistant Administrator	3	3	3
Deputy Associate Administrators	5	5	5
Associate General Counsel	1	1	1
Deputy Inspector General	1	-	-
Office Directors	5	5	5
Regional Administrators	2	2	2
District Directors	2	2	2
(Mono cast: 16.2)	(Mono cast: 4.8)	(Mono cast: 4.8)	(Mono cast: 4)

Type size:
8 point
14½ picas
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STANDARD FORM 306
July 1965, Bureau of the Budget
Circular No. A-11, Revised.
306-103

SMALL BUSINESS ADMINISTRATION
(EXCLUDING OFFICE OF INSPECTOR GENERAL) - CONTINUED

DETAIL OF PERMANENT POSITIONS

	1989 actual	1990 estimate	1991 estimate
Deputy Regional Administrators..........	1	1	1
Deputy General Counsel..................	1	1	1
Assistant Inspector General.............	1	-	-
Deputy to ADA...........................	1	1	1
ES-3:			
Associate General Counsel...............	1	1	1
Office Director.........................	1	1	1
Regional Administrator..................	2	2	2
Associate Deputy Administrator..........	1	1	1
Deputy to ADA...........................	1	1	1
ES-2:			
Regional Administrator..................	2	2	2
District Directors......................	2	2	2
ES-1:			
Associate Administrator.................	1	1	1
Chief of Staff..........................	1	1	1
Office Director.........................	1	1	1
Regional Administrator..................	3	3	3

GPO : 1968 O - 353-053

(Mono cast: 16.3) (Mono cast: 4.9) (Mono cast: 4.9) (Mono cast: 4)

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General of 1978, as amended, 5 (U.S.C. Appropriation 3 as amended by Public Law 100-540), [$7,400,000]. $9,864,000

Type size:
8 point 22 picas
Case 190
Red underscore
Case 219

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
OFFICE OF INSPECTOR GENERAL
Program and Financing (in thousands of dollars)

Identification code 73-0200-0-1-376	1989 actual	1990 estimate	1991 estimate
Program by activities:			
1. Management and Counsel.........	-	814	986
2. Audit Division.................	-	3,774	4,932
3. Investigations Division........	-	2,812	3,946
Total activities............	-	7,400	9,864
10.00 Total obligations	-	7,400	9,864
Financing:			
39.00 Budget Authority..............	-	7,400	9,864
Budget authority:			
40.00 Appropriation.................	-	7,400	9,864
Relation of obligations to outlays:			
71.00 Obligations incurred, net....	-	7,400	9,864
72.40 Obligated balance, start of year......................	-	0	370
74.40 Obligated balance, end of year.........................	-	-370	-1,007
77.00 Adjustment in expired accounts.....................	-	-	0
90.00 Outlays......................	-	7,030	9,227
(Mono cast: 21.5)	(Mono cast: 6)	(Mono cast: 5)	(Mono cast: 4.9)

Type size:
8 point 22 picas
Case 140
Red underscore
Case 210

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
OFFICE OF INSPECTOR GENERAL
Object Classification (in thousands of dollars)

Identification code 73-0200-0-1-376	1989 actual	1990 estimate	19 91 estimate
Personnel Compensation:			
11.1 Permanent positions..........	-	5,274	6,824
11.3 Positions other than permanent....................	-	97	97
11.5 Other personnel compensation.	-	89	89
Total personnel compensation.	-	5,460	7,010
12.1 Personnel benefits: Civilian.....................	-	896	1,110
13.0 Benefits for former personnel	-	-	0
21.0 Travel & transportation of persons......................	-	432	732
22.0 Transportation of things.....	-	-	200
23.1 Standard level user charges..	-	-	0
23.2 Rental Payments to others....	-	-	0
23.3 Communications, utilities, and miscellaneous charges........	-	-	0
24.0 Printing and reproduction....	-	15	15
25.0 Other services...............	-	444	644
26.0 Supplies and materials.......	-	53	53
31.0 Equipment....................	-	100	100
41.0 Grants, subsidies and contributions................	-	-	0
42.0 Insurance claims and indemnities..................	-	-	0
43.0 Interest and dividends.......	-	-	0
92.0 Undistributed (Disaster asst.)	-	-	0
99.0 Total direct obligations.....	-	7,400	9,864
99.9 Total obligations............	-	7,400	9,864
(Memo amt: [illegible])	(Memo amt: [illegible])	(Memo amt: [illegible])	(Memo amt: [illegible])

Type size
8 point 22 picas
Case 180
Red underscore
Case 310

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
OFFICE OF INSPECTOR GENERAL
Personnel Summary

Identification code 73-0200-0-1-376	19 89 actual	19 90 estimate	19 91 estimate
Total number of permanent positions.	-	135	168
Total compensable work-years:			
Full-time equivalent employment..	-	129	157
Full-time equivalent of overtime and holiday hours................	-	15	15
Average ES salary....................	-	$77,345	$78,505
Average GS grade.....................	-	12.00	12.00
Average GS salary....................	-	$40,269	$40,873
(Mono cast: 21.5)	(Mono cast: 8)	(Mono cast: 5)	(Mono cast: 4.8)

Type size:
8 point
14½ picas
Fol. lit. solid

STANDARD FORM 306
July 1948, Bureau of the Budget
Circular No. A-11, Revised.
300-108

SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL

DETAIL OF PERMANENT POSITIONS

	1989 actual	19 90 estimate	19 91 estimate
Executive Level III	-	0	0
Executive Level IV	-	0	0
Executive Level V	-	1	1
Subtotal	-	1	1
ES-6	-	0	0
ES-5	-	1	1
ES-4	-	1	1
ES-3	-	1	1
ES-2	-	0	0
ES-1	-	0	0
Subtotal	-	3	3
GS/GM-15	-	11	13
GS/GM-14	-	19	24
GS/GM-13	-	30	36
GS-12	-	34	43
GS-11	-	6	11
GS-10	-	0	0
GS-9	-	4	9
GS-8	-	2	2
GS-7	-	7	9
GS-6	-	9	9
GS-5	-	1	3
GS-4	-	3	4
(Mono cast: 16.3)	(Mono cast: 4.9)	(Mono cast: 4.9)	(Mono cast: 6)

GPO : [illegible]

Type size:
8 point
14½ picas
Fol. lit. solid

STANDARD FORM 306
July 1968, Bureau of the Budget
Circular No. A-11, Revised.
306-102

SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL

DETAIL OF PERMANENT POSITIONS

	1989 actual	1990 estimate	1991 estimate
GS-3	-	1	1
GS-2	-	0	0
GS-1	-	0	0
Total permanent positions	-	131	168
Unfilled positions, end of year	-	0	0
Total permanent employment, end of year	-	131	168
(Mono cast: 16.2)	(Mono cast: 4.9)	(Mono cast: 4.9)	(Mono cast: 4)

Type size:
8 point
14½ picas
Fol. lit. solid

STANDARD FORM 306
July 1968, Bureau of the Budget
Circular No. A-11, Revised.
306-103

SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL

DETAIL OF PERMANENT POSITIONS

	1989 actual	1990 estimate	1991 estimate
Executive Level V:			
Inspector General......................	-	1	1
ES-5:			
Assistant Inspector General............	-	1	1
ES-4:			
Deputy Inspector General...............	-	1	1
ES-3:			
Assistant Inspector General............	-	1	1
ES-2....................................	-	0	0
ES-1....................................	-	0	0
(Mono cast: 16.5)	(Mono cast: 4.9)	(Mono cast: 4.9)	(Mono cast: 4)

GPO : 1968 O - 352-683

Type size
8 point 22 picas
Case 1H0
Red underscore
Case 210

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SALARIES AND EXPENSES
WHITE HOUSE CONFERENCE
Program and Financing (in thousands of dollars)

Identification code 73-0104-0-1-376	1989 actual	1990 estimate	1991 estimate
Program by activities:			
10.00 Total obligations.............	-	-	-
Financing:			
14.00 Offsetting collections from: Non-Federal sources...........	-56	-	-
21.40 Unobligated balance available, start of year.................	-712	-768	-768
24.40 Unobligated balance available end of year...................	768	768	768
39.00 Budget Authority..............	-	-	-
Relation of obligations to outlays:			
71.00 Obligations incurred, net....	-56	-	-
72.40 Obligated balance, start of year......................	56	-	-
74.40 Obligated balance, end of year.........................	-	-	-
90.00 Outlays......................	-	-	-

NOTE: This program was completed in January 1987, with no future activity expected.

(Memo cast: 21.8)	(Memo cast: 8)	(Memo cast: 8)	(Memo cast: 4.8)

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by sections 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund" and the "Surety Bond Guarantees Revolving Fund".

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund". [77,500,000] to remain available without fiscal year limitation [as authorized by 15 U.S.C. 631 note; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $82,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note: Provided, That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987].

$91,000,000

During fiscal year 1991 commitments to guarantee loans may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed $4,403,456,000. During Fiscal Year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $5,000,000.

(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990)

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Program and Financing (in thousands of dollars)

73-4154-0-3-376	Obligations 1989 Actual	1990 Estimate	1991 Estimate
Program by activities:			
SBA direct loan commitments..................	82,300	74,500	5,000
SBA reserve for guarantee purchases..........	478,319	434,000	473,000
SBA reserve for SBIC loans...................	-	50,000	50,000
Less: Reserve amount for FFB SBIC loans	-37,545	-45,000	-40,000
Reserve amount for FFB 503 Dev. Co. loans..................	-51,937	-40,000	-35,000
MESBIC Subsidy	-	7,500	12,000
Administrative commitments, start of year:			
SBA direct loan commitments..................	24,827	21,933	21,933
FFB - 503 Development Co. loan commitments...	1,090	-	-
Administrative commitments, end of year:			
SBA direct loan commitments..................	-21,933	-21,933	-
FFB - 503 Development Co. loan commitments...	-	-	-
Other Expenses................................	193,533	182,200	169,250
Lease Guarantee Expenses......................	1,104	800	750
Direct loan cancellations.....................	-5,157	-	-
Total capital outlays: Loan programs........	664,601	664,000	656,933
Operating costs:			
Interest expense to Treasury............	74,728	74,000	71,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Program and Financing (in thousands of dollars) - Continued

	73-4154-0-3-376	Obligations 1989 Actual	 1990 Estimate	 1991 Estimate
	Total operating expenses...........	74,728	74,000	71,000
10.00	Total obligations..................	739,329	738,000	727,933
	Non-Federal sources:			
14.00	Loan repayments: SBA Financing programs...	-254,376	-257,000	-248,000
14.00	Loan repayments: SBA Investment programs..	-15,873	-16,000	-15,000
14.00	Loan repayments: FFB - SBIC program.......	-39,850	-50,000	-45,000
14.00	Loan repayments: FFB - 503 Dev. Co. program	-20,666	-20,000	-15,000
14.00	Loan repayments: FFB - Loan asset purchases	-4,205	-5,000	-5,000
14.00	Interest income: SBA Financing programs.......	-190,265	-199,000	-185,000
14.00	Interest income: SBA Investment programs......	-14,418	-14,000	-14,000
14.00	Other income: SBA programs....................	-138,687	-147,800	-149,117
14.00	Other income: Lease Guarantee program.........	-126	-200	-150

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Program and Financing (in thousands of dollars) - Continued

		Obligations		
	73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
14.00	Loan asset sales: SBA business loans..........	-	-	
	Unobligated balance available, start of year: Fund balance:			
21.90	Committed: SBA direct loans..................	-24,827	-21,933	-21,933
21.90	Uncommitted: SBA fund balance................	-194,289	-150,126	-120,626
22.40	Unobligated balance transferred to Salaries and Expenses	3,000	-	-
22.40	Unobligated balance transferred from lease.........	-2,419	-	-
	Unobligated balance available, end of year: Fund balance:			
24.90	Committed: SBA direct loans....................	21,933	21,933	-
24.90	Uncommitted: SBA fund balance..................	150,126	120,626	41,893
31.00	Redemption of debt (FFB loan repayments).........	64,721	75,000	65,000
31.00	Redemption of debt (FFB loan repurchases by SBA).	89,482	85,000	75,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Program and Financing (in thousands of dollars) - Continued

	73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
39.00	Budget authority	168,590	159,500	91,000
	Budget authority:			
	Current:			
40.00	Appropriation - SBA	167,500	159,500	91,000
	Permanent:			
67.10	Authority to borrow (indefinite) (12 U.S.C. 2281-96) FFB 503 Dev. Co. Loans	1,090	-	-
	Relation of obligations to outlays:			
71.00	Obligations incurred, net (SBA - all other)	213,976	189,000	191,666
71.00	Obligations incurred, net (FFB - all)	-153,113	-160,000	-140,000
72.98	Obligated balance, start of year: Fund balance (SBA)	231,821	224,521	228,521
73.90	Obligated balance transferred from Lease Guarantee Fund	432	-	-
74.98	Obligated balance, end of year: Fund balance (SBA)	-224,521	-228,521	-234,287
90.00	Outlays (SBA - all other)	221,258	185,000	185,900
90.00	Outlays (FFB - all)	-152,663	-160,000	-140,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

Status of Direct Loans (in thousands of dollars) 1/

	73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Position with respect to appropriations act limitation on obligations:			
1111	Limitation on direct loans to the public.....	-	-	5,000
1112	Unobligated direct loan limitation...........	-4,699	-	-
1131	Direct Loan obligations exempt from limitation	87,000	82,000	-
1150	Total direct loan obligations.............	82,301	82,000	5,000
	Cumulative balance of direct loans outstanding:			
1210	Outstanding, start of year..................	2,644,973	2,516,969	2,421,969
	Disbursements:			
1231	Direct loan disbursements..................	80,028	75,000	28,000
1232	Disbursements for guaranteed loan claims....	487,326	484,000	523,000
	Repayments:			
1251	Repayments and prepayments................	-274,454	-278,000	-268,000
1253	Loan asset sales to the public............	-	-	-
	Adjustments:			
1262	Write-offs for default - direct...........	-51,064	-45,000	-43,000
1262	Write-offs for default - guarantee.........	-289,199	-260,000	-250,000
1263	Discount on loan asset sales to the public or discounted prepayments...............	-	-	-
1264	Other adjustments, net 2/..................	-80,641	-71,000	-69,000
1290	Outstanding, end of year....................	2,516,969	2,421,969	2,342,969

1/ Includes SBA's direct portfolio and FFB's Asset account loan portfolio and accompanying transactions.
2/ Represents non-cash adjustments including CPC advances, judgements, notes receivable, etc.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

Status of Direct Loans (in thousands of dollars)
(FFB's Section 503 Development Company Loans)

	73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Cumulative balance of direct loans outstanding:			
1210	Outstanding, start of year..................	870,880	799,367	739,367
	Disbursements:			
1231	Direct loan disbursements.................	1,090	-	-
	Repayments:			
1251	Repayments and prepayments.................	-20,666	-20,000	-15,000
1251	Defaulted loans purchased by SBA...........	-51,937	-40,000	-35,000
1290	Outstanding, end of year....................	799,367	739,367	689,367

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

Status of Direct Loans (in thousands of dollars)
(FFB's Small Business Investment Company loans)

	73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Cumulative balance of direct loans outstanding:			
1210	Outstanding, start of year..................	632,681	555,286	460,286
	Disbursements:			
1231	Direct loan disbursements.................	-	-	-
	Repayments:			
1251	Repayments and prepayments.................	-39,850	-50,000	-45,000
1251	Defaulted loans purchased by SBA.............	-37,545	-45,000	-40,000
1290	Outstanding, end of year.....................	555,286	460,286	375,286

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

Status of Guaranteed Loans (in thousands of dollars)

	73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Position with respect to appropriation act limitation on commitments:			
2111	Limitation on guaranteed loans made by private lenders	-	-	4,403,456
2112	Unused balance of limitation expiring	-	-	-
2131	Guaranteed loan commitments exempt from limitation	3,692,312	4,550,563	-
2131	Reduction pursuant to sequestion	-	-54,951	-
2150	Total guaranteed loan commitments	3,692,312	4,495,612	4,403,456
	Cumulative balance of guaranteed loans outstanding:			
2210	Outstanding, start of year	9,710,532	10,801,231	12,062,231
	Disbursements:			
2231	Disbursements of new guaranteed loans	3,315,461	3,688,000	4,119,000
	Repayments:			
2251	Repayments and prepayments	-1,731,851	-1,926,000	-2,151,000
	Adjustments:			
2261	Terminations for default that result in direct loans	-479,429	-481,000	-540,000
2264	Other Adjustments, net	-13,482	-20,000	-20,000
2290	Outstanding, end of year	10,801,231	12,062,231	13,470,231
	Memorandum:			
2299	U.S. Contingent liability for guaranteed loans outstanding, end of year	9,070,551	10,130,000	11,312,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
LOAN PROGRAM LEVELS (in thousands of dollars)

73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
Small Business Administration's Share of Direct Loan Levels			
Section 8(a)	899	5,000	5,000
Handicapped Loans	11,998	12,000	-
Economic Opportunity Loans	16,991	17,000	-
Veterans Loans	16,914	17,000	-
Minority Enterprise Small Business Investment Company debentures	35,499	31,000	-
Total direct loans	82,301	82,000	5,000
Small Business Administration's Share of Guaranteed Loan Levels			
General Business Loans	2,617,881	3,161,358	3,200,000
Handicapped Loans	1,225	-	-
Economic Opportunity Loans	34,049	-	-
Energy Loans	-	-	-
Development Company loans	364,246	472,228	450,000
Investment Company loans	50,220	245,993	100,000
Minority Investment Company loans	-	49,396	80,000
Total guaranteed loans	3,067,621	3,928,975	3,830,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
NARRATIVE STATEMENT ON PROGRAM AND PERFORMANCE

General Business Assistance. - The Small Business Administration (SBA) guarantees loans to small businesses that are unable to obtain private financing. These loans must be of such value or so secured as to reasonably assure repayment. No loan may be made unless the financial assistance is not otherwise available on reasonable terms. Under the guaranty plan, the SBA agrees to purchase the guaranteed portion of the loan only upon default. SBA's share of loans guaranteed by private lenders is about 81 percent. In addition to providing financial assistance to the general business community, particular emphasis is given to the following groups:

> Businesses owned by socially and economically disadvantaged individuals;
>
> Businesses that employ or are owned by handicapped individuals;
>
> Small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals; and
>
> Small business concerns owned and operated by veterans, especially Vietnam-era veterans.

Investment Company Assistance. - A primary function of small business investment companies is to provide a source of equity capital or long-term loans to new or expanding small businesses. The Small Business Investment Act, as amended, authorizes the SBA to purchase or to guarantee the timely payment of all principal and interest, as scheduled, on debentures issued by such companies. The 1991 request proposes to convert direct lending to guaranteed lending. Substantial additional guarantee authority is requested under the Minority Investment Company Program. In addition, beginning in 1990, SBA will provide an interest subsidy to provide additional assistance to Minority Investment Companies.

Development Companies Assistance. - Under the Small Business Investment Act, the SBA makes loans through State and local development companies to small businesses. Through these programs, the SBA promotes economic development and job creation or maintenance by stimulating the flow of longterm financing to small business concerns for projects that involve fixed assets. These projects are designed to create or retain a meaningful number of jobs in the communities affected, with a special emphasis on distressed areas.

FY 1991 Proposal. - This request proposes the conversion of all SBA direct lending to guaranteed lending, except for direct loans to minority firms participating in the Section 8(a) program. Direct loans are continued to provide an additional subsidy to these businessess. In addition, the budget proposes the establishment of only four types of guaranteed lending: (1) General Business Assistance, (2) Development Company Assistance, (3) Minority Investment Company Assistance and (4) Investment Company Assistance. The program will, however, still emphasize lending to businesses owned by socially and economically disadvantaged individuals and other borrowers requiring special emphasis.

This request also proposes increasing guarantee fees in all programs to help offset losses SBA incurs in these programs. To provide an additional credit subsidy to minority small businesses, the budget proposes a lower increase in the guarantee fee for the Minority Investment Companies, together with improved credit management and debt collection policies, will help reduce the cost of these programs and contribute toward eventual self-sufficiency.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

Revenue and Expense (in thousands of dollars) 1/

73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
Financial assistance program:			
Revenue	279,849	275,000	270,000
Expense	-542,648	-540,000	-530,000
Net loss, Financial assistance program	-262,799	-265,000	-260,000
Investment company assistance program:			
Revenue	-17,615	20,000	20,000
Expense	20,979	-16,000	-16,000
Net Income, Investment company assistance program	3,364	4,000	4,000
Net loss for the period	-259,435	-261,000	-256,000

1/ Excludes Federal Financing Bank transactions included on program and financing schedules.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

Financial Condition (in thousands of dollars)

73-4154-0-3-376	1988 Actual	1989 Actual	1990 Estimate	1991 Estimate
Assets:				
Fund balance with Treasury	450,936	396,580	371,080	276,180
Accounts receivable, net	276,864	203,731	203,731	203,731
Advances made	32,673	121,272	121,272	121,272
Loans receivable, net 1/	3,017,288	2,781,971	2,621,642	2,507,622
Acquired security and collateral	140,457	127,366	127,366	127,366
Other assets	429,904	486,237	486,237	486,237
Total assets	4,348,122	4,117,157	3,931,328	3,722,408
Liabilities:				
Accounts payable including funded accrued liabilities	161,992	194,011	193,011	190,011
Advances received	83,869	65,854	65,854	65,854
Debt issued under borrowing authority:				
SBIC and Development Company participation certificates outstanding (net)	74,277	74,277	74,277	74,277
SBIC and Development Company loans held by the FFB 1/	1,520,691	1,367,578	1,207,578	1,067,578
Total liabilities	1,840,829	1,701,720	1,540,720	1,397,720

1/ Includes Federal Financing Bank transactions included on program and financing schedules.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

Financial Condition (in thousands of dollars) - Continued

73-4154-0-3-376	1988 Actual	1989 Actual	1990 Estimate	1991 Estimate
Government equity:				
Unexpended budget authority:				
Unobligated balance:				
Committed	24,827	21,933	21,933	-
Uncommitted	194,289	150,126	120,626	41,893
Undelivered orders:				
Undisbursed direct loan obligations	-	-	-	-
Undisbursed guaranteed loan obligations	295,496	285,758	285,758	285,758
Invested capital	2,066,958	1,957,620	1,962,291	1,997,037
Total Government equity	2,581,570	2,415,437	2,390,608	2,324,688
Analysis of changes in Government equity:				
Paid-in Capital:				
Opening balance		8,120,597	8,288,613	8,448,113
Appropriations		168,016	159,500	91,000
Closing balance		8,288,613	8,448,113	8,539,113
Retained earnings:				
Opening balance		-5,539,027	-5,873,176	-6,057,505
Net operating loss		-334,149	-184,329	-156,920

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Financial Condition (in thousands of dollars) - Continued

73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
Closing balance..................	-5,873,176	-6,057,505	-6,214,425
Total Government equity (end of year).............	2,415,437	2,390,608	2,324,688

NOTE: Unfunded contingent liability for outstanding guaranteed loans is as follows: September 30, 1989, $ 9,070,551 thousand; September 30, 1990,$10,130,000 thousand; and September 30, 1991, $11,312,000 thousand, exclusive of FFB loans.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND

Object Classification (in thousands of dollars)

	73-4154-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
25.0	Other Services..................................	194,637	183,000	170,000
33.0	Investments and loans...........................	469,964	481,000	486,933
43.0	Interest and dividends..........................	74,728	74,000	71,000
99.0	Total obligations...........................	739,329	738,000	727,933

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Program and Financing (in thousands of dollars)

	73-4154-2-3-376	Obligations		
		1989 Actual	1990 Estimate	1991 Estimate
	Program by activities:			
	Operating expenses:			
	(a) Reserve for losses on pollution bonds...	-	-	12,000
	(b) Other expenses for pollution bonds......	-	-	200
10.00	Total Obligations..........................	-	-	12,200
	Financing:			
	Offsetting collections from:			
	Non-Federal sources:			
14.00	Fee income from business loans.................	-	-	-97,000
14.00	Other income from pollution bonds..........	-	-	-1,100
	Unobligated balance transferred:			
22.90	Fund balance: Committed - Pollution bonds....	-	-	-15,900
22.90	Fund balance: Uncommitted - Pollution bonds..	-	-	-6,800
	Unobligated balance available, end of year:			
24.90	Fund balance: Committed - Pollution bonds.....	-	-	15,900
24.90	Fund balance: Uncommitted - Pollution bonds...	-	-	4,700
24.90	Fund balance: Uncommitted - BLIF..............	-	-	-
40.00	Budget authority (appropriation)...........	-	-	-88,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Program and Financing (in thousands of dollars) - Continued

		Obligations		
	73-4154-2-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Relation of obligations to outlays:			
71.00	Obligations incurred, net........................	-	-	-85,900
73.90	Obligated balance transferred from pollution fund, beginning of year.............	-	-	-3,863
74.10	Receivable in excess of obligations, end of year	-	-	5,863
90.00	Outlays..	-	-	-83,900

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Status of Guaranteed Loans (in thousands of dollars)

	73-4154-2-3-376	Obligations 1989 Actual	 1990 Estimate	 1991 Estimate
	Cumulative balance of guaranteed loans outstanding:			
2210	Outstanding, start of year (Pollution Bonds)...	-	-	222,973
2231	Disbursements: Disbursements for new guaranteed loans........	-	-	-
2251	Repayments: Repayments and prepayments....................	-	-	-15,000
2263	Adjustments: Terminations for default that result in claim payments..........................	-	-	-5,000
2290	Outstanding, end of year (Pollution Bonds).....	-	-	202,973
	Memorandum:			
2299	U.S. contingent liability for guaranteed loans outstanding, end of year (Pollution Bonds)...	-	-	202,973

SMALL BUSINESS ADMINISTRATION
FY 1990 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
TRANSMITTAL CODE "2"
NARRATIVE STATEMENT ON PROGRAM AND PERFORMANCE

Activities conducted under the Pollution Control Equipment Contract Guarantee Revolving Fund are proposed to be consolidated into this account. Since no new activity is projected for that account other than liquidating existing obligations, the consolidation would simplify SBA's accounting requirements and improve its internal controls.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
BUSINESS LOAN AND INVESTMENT FUND
Object Classification (in thousands of dollars)

	73-4154-2-3-376	Obligations 1989 Actual	 1990 Estimate	 1991 Estimate
25.0	Other Services..............................	-	-	12,200
99.9	Total Obligations.........................	-	-	12,200

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Disaster Loan Fund

[“(c)For additional capital for the "Disaster loan fund", authorized by the Small Business Act, as amended, $500,000,000. to remain available without fiscal year limitation to meet the present emergency of which not to exceed $30,000,000 may be transferred to the Salaries and expenses' account of the Small Business Administration for disaster loan servicing and disaster loan making activities: Provided. That during fiscal yer 1990, and within the resources available to carry out section 7(b) of the Small Business Act, as amended, gross obligations for new direct loans shall not exceed $1,813,250,000.]

During fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $350,000,000. (Public Law 101-130, making further continuing appropriations for the fiscal year 1990.)

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Program and Financing (in thousands of dollars)

		Obligations		
	73-4153-0-3-453	1989 Actual	1990 Estimate	1991 Estimate
	Program by activities:			
	Capital Investment:			
	Physical disaster loans	146,719	1,813,250	350,000
	Administrative commitments:			
	Start of year	21,677	40,440	40,440
	End of year	-40,440	-40,440	-40,440
	Loan cancellations	-23,658	-	-
	Total Capital Outlays	104,298	1,813,250	350,000
	Operating costs, funded:			
	(a) Interest expense to Treasury	94,292	102,000	110,000
	(b) Other expenses	32,657	35,000	35,000
	Total operating costs, funded	126,949	137,000	145,000
10.00	Total obligations	231,247	1,950,250	495,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Program and Financing (in thousands of dollars) - Continued

		Cost and Obligations		
	73-4153-0-3-453	1989 Actual	1990 Estimate	1991 Estimate
	Financing:			
	Offsetting collections from:			
	Non-Federal sources:			
14.00	Loan repayments	-402,413	-427,000	-462,000
14.00	Interest income	-151,866	-184,000	-161,000
14.00	Other income	-15,279	-18,000	-16,000
14.00	Sale of assets	-	-	-
	Unobligated balance, start of year: Fund balance			
21.98	Committed	-21,677	-40,440	-40,440
21.98	Uncommitted	-828,828	-1,054,707	-126,297
22.98	Unobligated balance transferred to salaries and expenses fund	93,669	-	-
	Unobligated balance, end of year: Fund balance:			
24.98	Committed	40,440	40,440	40,440
24.98	Uncommitted	1,054,707	126,297	270,297
39.00	Budget authority	-	392,840	-

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Program and Financing (in thousands of dollars) - Continued

	73-4153-0-3-453	1989 Actual	1990 Estimate	1991 Estimate
	Relation of obligations to outlays:			
71.00	Obligations incurred, net..................	-338,311	1,321,250	-144,000
72.98	Obligated balance, start of year:			
	Fund balance.............................	107,324	76,233	739,483
74.98	Obligated balance, end of year:			
	Fund balance.............................	-76,233	-739,483	-595,483
90.00	Outlays.............................	-307,220	658,000	-

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Status of Direct Loans (in thousands of dollars)

	73-4153-0-3-453	1989 Actual	1990 Estimate	1991 Estimate
	Position with respect to appropriations act limitation on obligations:			
1111	Limitation on direct loans....................	-	-	350,000
1131	Direct loan obligations exempt from limitation	170,377	1,813,250	-
1131	Direct loan obligations exempt from limitation (loan cancellations, net)..................	-23,658	-	-
1150	Total direct loan obligations..............	146,719	1,813,250	350,000
	Cumulative balance of direct loans outstanding:			
1210	Outstanding, start of year..................	3,260,085	2,867,548	3,483,548
	Disbursements:			
1231	Direct loan disbursements....................	135,015	1,158,000	503,000
1251	Repayments:			
	Repayments and prepayments..................	-402,413	-427,000	-462,000
1253	Loan asset sales to the public...............	-	-	-
1254	Adjustments:			
1262	Write-offs for default.......................	-125,139	-105,000	-129,000
1263	Discount on loan asset sales to the public or discounted prepayments....................	-	-	-
1264	Other Adjustments, net 1/....................	-	-10,000	-10,000
1290	Outstanding, end of year.....................	2,867,548	3,483,548	3,385,548

1/ Represents non-cash adjustments including CPC advances, judgements, notes receivable, etc.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Status of Guaranteed Loans (in thousands of dollars)

	73-4153-0-3-453	1989 Actual	1990 Estimate	1991 Estimate
	Cumulative balance of guaranteed loans outstanding			
2210	Outstanding, start of year..................	1,486	1,164	964
2251	Repayments: Repayments and prepayments..................	-242	-200	-200
2264	Other Adjustments	-80	-	-
2290	Outstanding, end of year....................	1,164	964	764
	Memorandum:			
2299	U.S. Contingent liability for guaranteed loans outstanding, end of year..................	1,040	861	683

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Narrative Statement on Program and Performance

This fund finances disaster loans made pursuant to section 7(b) of the Small Business Act, as amended.

Physical Disaster Loans. - Under this program, loans are made to individuals and businesses at favorable terms and conditions for uninsured losses of property, both real personal, damaged by natural disasters such as tornadoes, floods, hurricanes, etc. The large outlays in 1990 reflect assistance provided to victims of Hurricane Hugo and the Loma Prieta earthquake.

The budget proposes that starting in FY 1991, the SBA will no longer make loans to individuals able to obtain loans from private lenders. In addition, to reduce the deep subsidy in this program the interest rate is proposed to be increased to the Treasury cost of borrowing.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Revenue and Expense (in thousands of dollars)

73-4153-0-3-453	1989 Actual	1990 Estimate	1991 Estimate
Revenue..	152,931	184,000	161,000
Expense..	-348,396	-782,090	-114,000
Net loss for the year..................	-195,465	-598,090	47,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Financial Condition (in thousands of dollars)

73-4153-0-3-453	1988 Actual	1989 Actual	1990 Estimate	1991 Estimate
Assets:				
Fund balance with Treasury	957,829	1,171,380	906,220	906,220
Accounts receivable (net)	64,223	53,656	53,656	53,656
Loans receivable (net)	3,138,033	2,626,662	2,571,412	2,610,412
Acquired security and collateral	17,918	11,140	11,140	11,140
Other assets	85,947	96,593	96,593	96,593
Total assets	4,263,950	3,959,431	3,639,021	3,678,021
Liabilities:				
Accounts payable including funded accrued liabilities	111,117	95,504	87,503	79,503
Advances received	3,940	4,386	4,386	4,386
Total liabilities	115,057	99,890	91,889	83,889

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Financial Condition (in thousands of dollars) - Continued

73-4153-0-3-453	1988 Actual	1989 Actual	1990 Estimate	1991 Estimate
Government Equity:				
Unexpended budget authority:				
Unobligated balance:				
Committed	21,677	40,440	40,440	40,440
Uncommitted	828,828	1,054,707	126,297	270,297
Undelivered orders:				
Undisbursed loan obligations	56,490	30,000	30,000	30,000
Invested capital	3,241,898	2,734,395	3,350,395	3,253,395
Total Government equity	4,148,893	3,859,542	3,547,132	3,594,132
Analysis of changes in Government equity:				
Paid-in capital:				
Opening balance		7,079,281	6,985,612	7,271,292
Appropriations		-	392,840	-
Transfer to Salaries and Expenses		-93,669	-107,160	-
Closing balance		6,985,612	7,271,292	7,271,292
Retained income				
Opening balance		-2,930,605	-3,126,070	-3,724,160
Transactions:				
Net operating loss		-195,465	-598,090	47,000
Closing balance		-3,126,070	-3,724,160	-3,677,160
Total Government equity (end of year)		3,859,542	3,547,132	3,594,132

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND

Object Classification (in thousands of dollars)

	73-4153-0-3-453	1989 Actual	1990 Estimate	1991 Estimate
25.0	Other Services	32,657	35,000	35,000
33.0	Investments and loans	104,297	1,813,250	350,000
43.0	Interest and dividends	94,293	102,000	110,000
99.9	Total obligations	231,247	1,950,250	495,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND
TRANSMITTAL "2" SCHEDULE
Program and Financing (in thousands of dollars)

		Obligations		
	73-4153-2-3-453	1989 Actual	1990 Estimate	1991 Estimate
	Program by activities:			
	Physical disaster loans......................	-	-	-
	Loan cancellations..........................	-	-	-
	Total capital outlays......................	-	-	-
	Operating Costs, Funded:			
	(a) Interest expense to Treasury...........	-	-	-65,000
	Total operating costs, funded...........	-	-	-65,000
10.00	Total obligations.......................	-	-	-65,000
	Financing:			
	Offsetting collections from:			
	Non-Federal sources:			
14.00	Loan repayments...........................	-	-	2,000
14.00	Interest income...........................	-	-	-6,000
	Unobligated balance, end of year: fund balance:			
24.90	Uncommitted..............................	-	-	69,000
39.00	Budget authority (appropriation)............	-	-	-
	Relation of Obligations to Outlays:			
71.00	Obligations incurred, net....................	-	-	-69,000
74.10	Receivables, end of year:			
	Fund balance.................................	-	-	39,000
90.00	Outlays......................................	-	-	-30,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND
TRANSMITTAL "2" SCHEDULE
Narrative Statement on Program and Performance

This schedule shows the effects of the Administration's proposal to reform the disaster assistance program in FY 1991.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND
TRANSMITTAL "2" SCHEDULE
Status of Direct Loans (in thousands of dollars)

	73-4153-2-3-453	1989 Actual	1990 Estimate	1991 Estimate
	Position with respect to appropriations act limitation on obligations:			
1111	Limitation on direct loans..................	-	-	-65,000
1131	Direct loans exempt from limitation (loan cancellations, net)..................	-	-	-
1150	Total direct loan obligations.............	-	-	-65,000
	Cumulative balance of direct loans outstanding:			
1210	Outstanding, start of year..................	-	-	-
	Disbursements:			
1231	Direct loan disbursements..................	-	-	-26,000
	Repayments:			
1251	Repayments and prepayments..................	-	-	2,000
1290	Outstanding, end of year....................	-	-	-24,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
DISASTER LOAN FUND
TRANSMITTAL "2" SCHEDULE
Object Classification (in thousands of dollars)

	73-4153-2-3-453	1988 Actual	1989 Estimate	1990 Estimate
33.0	Investments and loans..........................	-	-	-65,000
43.0	Interest and dividends.........................	-	-	-
99.9	Total obligations..........................	-	-	-65,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", $10,200,000
authorized by the Small Business Investment Act, as amended [$11,000,000],
to remain available without fiscal year limitation.

(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990)

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SURETY BOND GUARANTEES REVOLVING FUND

Program and Financing (in thousands of dollars)

	73-4156-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Program by activites:			
	Operating expenses:			
	(a) Reserve for losses........................	23,997	27,300	29,700
	(b) Other expenses...........................	162	100	100
10.00	Total Obligations....................	24,159	27,400	29,800
	Financing:			
	Offsetting collections from: Non-Federal Sources:			
14.00	Fee Income................................	-14,433	-15,500	-18,300
14.00	Recoveries of claims paid.................	-2,464	-2,000	-2,000
21.98	Unobligated balance available, start of year: Fund balance..............................	-960	-3,194	-4,294
24.98	Unobligated balance available, end of year: Fund balance..............................	3,194	4,294	4,994
40.00	Budget authority (appropriation)......	9,497	11,000	10,200
	Relation of obligations to outlays:			
71.00	Obligations incurred, net...................	7,263	9,900	9,500
72.98	Obligated balance, start of year: Fund balance..............................	24,770	30,527	30,527
74.98	Obligated balance, end of year: Fund balance..............................	-30,527	-30,527	-30,527
90.00	Outlays...................................	1,506	9,900	9,500

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SURETY BOND GUARANTEES REVOLVING FUND
NARRATIVE STATEMENT ON PROGRAM AND PERFORMANCE

Public Law 93-386, the Small Business Amendment Act of 1974, established this fund to finance the surety bond guarantee program.

The Small Business Administration will guarantee a portion of the losses sustained by a surety company as a result of the issuance of a bid, payment, and/or performance bond to a small business concern.

In addition, on November 3, 1988, Public Law 100-590 authorized the Preferred Surety Bond Guarantee Program as a 3 year pilot program. The Agency will begin issuing guarantees under this pilot in mid FY 1990.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SURETY BOND GUARANTEES REVOLVING FUND

Bond Guarantees (in thousands of dollars)

73-4156-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
SBA contingent liability for new bond guarantees..	1,151,562	1,250,000	1,500,000
Revenue and Expense (in thousands of dollars)			
Revenue..	16,896	17,500	20,300
Expense..	-24,159	-27,400	-29,800
Net loss for the year.........................	-7,263	-9,900	-9,500

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SURETY BOND GUARANTEES REVOLVING FUND

Financial Condition (in thousands of dollars)

73-4156-0-3-376	1988 Actual	1989 Actual	1990 Estimate	1991 Estimate
Assets:				
Fund balance with Treasury.........	25,730	33,721	34,821	35,521
Accounts receivable...............	2,610	2,992	2,992	2,992
Total assets....................	28,340	36,713	37,813	38,513
Liabilities:				
Accounts payable and accrued liabilities.....................	27,380	33,519	34,519	34,519
Government equity:				
Unobligated balance...............	960	3,194	4,294	4,994

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
SURETY BOND GUARANTEES REVOLVING FUND

Financial Condition (in thousands of dollars) - Continued

73-4156-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
Analysis of changes in Government equity:			
Paid-in capital:			
Opening balance............................	245,074	254,571	265,571
Appropriations.............................	9,497	11,000	10,200
Closing balance	254,571	265,571	275,771
Retained earnings:			
Opening balance............................	-244,114	-251,377	-261,277
Net loss...................................	-7,263	-9,900	-9,500
Closing balance............................	-251,377	-261,277	-270,777
Total Government equity (end of year)....	3,194	4,294	4,994

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $9,000,000 [$13,000,000], to remain available without fiscal year limitation, as authorized by 15 U.S.C. 631 note.

(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990)

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Program and Financing (in thousands of dollars)

	73-4147-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Program by activities:			
	Operating expenses:			
	(a) Reserve for losses	9,548	12,000	12,000
	(b) Other Expenses	138	200	200
10.00	Total Obligations	9,686	12,200	12,200
	Financing:			
	Offsetting collections from:			
	Non-Federal sources:			
14.00	Other Income	-1,828	-1,200	-1,100
	Unobligated balance available, start of year:			
	Fund balance:			
21.98	Committed	-10,402	-15,854	-12,854
21.98	Uncommitted	-4,500	-4,846	-6,846
	Unobligated balance available, end of year:			
	Fund balance:			
24.98	Committed	15,854	12,854	10,854
24.98	Uncommitted	4,846	6,846	4,746
40.00	Budget authority (appropriation)	13,656	13,000	9,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Program and Financing (in thousands of dollars) - Continued

	73-4147-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Relation of obligations to outlays:			
71.00	Obligations incurred, net....................	7,858	11,000	11,100
72.10	Receivables in excess of obligations, Start of year..............................	-11	-863	-3,863
74.10	Receivables in excess of obligations, End of year...............................	863	3,863	5,863
90.00	Outlays....................................	8,710	14,000	13,100

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Status of Guaranteed Loans (in thousands of dollars)

	73-4147-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Position with respect to appropriations act imitation on commitments:			
2131	Guaranteed loan commitments exempt from limitation..........................	-	-	-
2150	Total guaranteed loan commitments.....	-	-	-
	Cumulative balance of guaranteed loans outstanding:			
2210	Outstanding, start of year..................	261,877	242,973	222,973
	Disbursements:			
2231	Disbursements of new guaranteed loans........	1,200	-	-15,000
2251	Repayments:			
	Repayments and Prepayments..................	-20,104	-20,000	-5,000
	Adjustments:			
2263	Terminations for default that result in claim payments............................	-	-	-
2290	Outstanding, end of year...................	242,973	222,973	202,973
	Memorandum			
2299	U.S. contingent liability for guaranteed loans outstanding, end of year............	242,973	222,973	202,973

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND
NARRATIVE STATEMENT ON PROGRAM AND PERFORMANCE

Public Law 94-305, approved June 4, 1976, established this fund to alleviate the adverse impact of pollution regulations on small businesses. The Small Business Administration may, whenever it determines that small business concerns are to be at an operational or financial disadvantage with respect to planning, design, or installation of pollution control facilities or the financing thereof, guarantee the payment of rentals or other amounts due under qualified contracts.

Starting in FY 1989, new financings for this program have been financed under the Business Loan and Investment Fund. We propose that in FY 1991, the accounting and all future payment and receipt transactions will be consolidated under the Business Loan and Investment Fund.

As a result of the decision to eliminate the tax exempt provisions associated with the Pollution Control Guaranteed program, the level of activity has decreased significantly. However, funds will be necessary to honor the "full faith and credit" of those guarantees currently outstanding. Therefore, this submission is also proposing to consolidate this fund into the business loan and investment fund.

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Revenue and Expense (in thousands of dollars)

73-4147-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
Revenue	202	1,200	1,100
Expense	-133	-12,200	-12,200
Net loss for the year	-69	-11,000	-11,100

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Financial Condition (in thousands of dollars)

73-4147-0-3-376	1988 Actual	1989 Actual	1990 Estimate	1991 Estimate
Assets:				
Fund balance with Treasury.........	14,892	19,837	18,837	14,737
Loans receivable..................	47,602	55,726	55,726	55,726
Other assests.....................	2,783	3,438	3,438	3,438
Total assets....................	65,277	79,001	78,001	73,901
Liabilities:				
Accounts payable and accrued liabilites.......................	-	-	-	-
Government equity:				
Unexpended budget authority:				
Unobligated balance:				
Committed.......................	10,402	15,854	15,854	15,854
Uncommitted.....................	4,500	4,846	6,800	6,800
Invested Capital..................	50,375	58,301	58,301	58,301
Total Government Equity..........	65,277	79,001	80,955	80,955
Analysis of changes in Government equity:				
Paid-in capital:				
Opening balance.................	29,245	42,901	56,557	69,557
Appropriation...................	13,656	13,656	13,000	9,000
Closing balance.................	42,901	56,557	69,557	78,557

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Financial Condition (in thousands of dollars) - Continued

73-4147-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
Retained earnings:			
Opening balance..................	22,376	22,444	33,444
Net Loss.........................	68	-11,000	-11,100
Closing balance..................	22,444	33,444	44,544
Total Government equity (end of year)..................	79,001	78,001	73,901

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND
Object Classification ($ in thousands)

		Obligations		
	73-4147-0-3-376	1989 Actual	1990 Estimate	1991 Estimate
25.0	Other Services	9,686	12,200	12,200
99.9	Total Obligations	9,686	12,200	12,200

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Program and Financing (in thousands of dollars)

	73-4147-2-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Program by activities:			
	Operating expenses:			
	(a) Reserve for losses	-	-	-12,000
	(b) Other Expenses	-	-	-200
10.00	Total Obligations	-	-	-12,200
	Financing:			
	Offsetting collections from:			
	Non-Federal sources:			
14.00	Other Income	-	-	1,100
	Unobligated balance transferred, beginning of year:			
22.98	Committed	-	-	15,900
22.98	Uncommitted	-	-	6,800
	Unobligated balance transferred, end of year:			
22.98	Committed	-	-	-15,900
22.98	Uncommitted	-	-	-4,700
40.00	Budget authority (appropriation)	-	-	-9,000

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Program and Financing (in thousands of dollars) - Continued

	73-4147-2-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Relation of obligations to outlays:			
71.00	Obligations incurred, net........................	-	-	-11,100
73.10	Receivables in excess of obligations, transferred Start of year..................................	-	-	3,863
73.10	Receivables in excess of obligations, transferred End of year....................................	-	-	-5,863
90.00	Outlays..	-	-	-13,100

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES REVOLVING FUND
Status of Guaranteed Loans (in thousands of dollars)

	73-4147-2-3-376	1989 Actual	1990 Estimate	1991 Estimate
	Position with respect to appropriations act limitation on commitments:			
2131	Guaranteed loan commitments exempt from limitation	-	-	-
2150	Total guaranteed loan commitments	-	-	-
	Cumulative balance of guaranteed loans outstanding:			
2210	Outstanding, start of year	-	-	-222,973
	Disbursements:			
2231	Disbursements of new guaranteed loans	-	-	-
2251	Repayments: Repayments and Prepayments	-	-	15,000
	Adjustments:			
2263	Terminations for default that result in claim payments	-	-	5,000
2290	Outstanding, end of year	-	-	-202,973
	Memorandum			
2299	U.S. contingent liability for guaranteed loans outstanding, end of year	-	-	-202,973

SMALL BUSINESS ADMINISTRATION
FY 1991 CONGRESSIONAL SUBMISSION
POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND
Object Classification ($ in thousands)

		Obligations		
	73-4147-2-3-376	1989 Actual	1990 Estimate	1991 Estimate
25.0	Other Services	-	-	-12,200
99.9	Total Obligations	-	-	-12,200

FY 1991 SBA ADMINISTRATOR'S STATEMENT

Mr. **Smith**. We have testifying today Susan Engeleiter, the Administrator of SBA.

Since this is your first appearance before the Committee, we will insert a copy of your biographical sketch into the record.

[The biography of Ms. Engeleiter follows:]

Susan S. Engeleiter, Administrator, U.S. Small Business Administration

Susan S. Engeleiter was sworn in as Administrator of the U.S. Small Business Administration on May 1, 1989, at a White House ceremony attended by President Bush. She was confirmed for this position by the U.S. Senate on April 19, 1989, becoming the first women to hold this post.

In addition to her duties as SBA Administrator, the President designated Engeleiter in November 1989 to chair the National Women's Business Council.

Prior to joining the Small Business Administration, Engeleiter served two terms as Minority Leader of the Wisconsin State Senate, from 1984 to 1988. She was also the Assistant Minority Leader from 1982 to 1984. She is the only woman to be reelected to a major post in the Wisconsin legislature and the first woman to hold a major elected leadership post. She represented Wisconsin's 33rd District for nine years.

Before being elected to the State Senate, Engeleiter served two terms as a State Representative. She was the youngest woman in the country elected to a state legislature when she took office in 1975 at the age of 22.

In the interim between serving in the Assembly and the Senate, she served as the Legislative Assistant to former Wisconsin Governor Lee Sherman Dreyfus from January 1979 to March 1980.

In 1988, Engeleiter was the Repubican candidate for the United States Senate in Wisconsin.

Her commitment to protecting the interests of small business and her effectiveness as a legislator have resulted in her receiving numerous awards, including the Guardian of Small Business Award from the National Federation of Independent Business in 1988. She was also chosen one of the 10 best Republican legislators in the nation in 1986 by the National Republican Legislators Association.

In addition to Engeleiter's achievements in government, she also maintains a high level of civic involvement. She has received numerous awards recognizing her efforts in the community, including the Women of Distinction Award from the Christoph Memorial YWCA of Waukesha County, the Distinguished Service Award from the Wisconsin Association of the Future Farmers of America, the Wisconsin Gift of Life Chairperson Award from the National Kidney Foundation, the Community Service Award from the Alliance for the Mentally Ill of Greater Milwaukee and the Girl Scouts of Wisconsin Appreciation Award presented to former girl scouts for outstanding achievements.

She holds a Juris Doctor degree from the University of Wisconsin Law School, and received her Bachelor of Science degree in English and Communication Arts for the University of Wisconsin.

Susan Engeleiter was born in Milwaukee, Wisconsin. She is married to Gerald H. Engeleiter, Vice President of the St. Paul Companies. They have one daughter, Jennifer Lynnn, and one son, Brian Timothy.

Mr. **Smith**. Do you have a statement or how do you want to proceed?

Ms. **Engeleiter**. I do have a rather lengthy statement, Mr. Chairman, that I will submit for the record, and I will give a much briefer version, if you have the time for a few minutes here.

Mr. **Smith**. All right. That would be fine.

Ms. **Engeleiter**. Okay. Great.

Mr. Chairman, first of all, let me wish you an early happy birthday. We both have birthdays this week. Mine has just passed, and yours is coming up, I understand.

Mr. **Smith**. Thank you.

Ms. **Engeleiter**. It is an honor to come here for the first time in my position as I complete my first year as administrator of the United States Small Business Administration, and I feel very fortunate to be able to come here today in what is a rather new era for the agency in its 37-year history. An era that, of course, is represented by President Bush's strong commitment to a new and revitalized SBA. And I would like to thank you, Mr. Chairman, and your colleagues for all the support that you have given me and all of us during my first year here at the SBA.

I believe that we have been able to put together one of the best teams in Government at the Small Business Administration, and, of course, I have brought with me today our Comptroller, Lawrence Rosenbaum, who has been with the Agency, as I think you know, for 23 years.

We feel that our fiscal year 1991 budget will allow the SBA to continue serving those new small enterprises and to encourage the creation and growth of small business and, therefore, creating more jobs. The budget does request $5.6 billion in program authority for credit programs, and the $336 million direct appropriation for our non-credit programs and administrative expenses. The credit budget of $5.6 billion does include $3.8 billion for direct and guaranteed loans, $1.5 billion for surety bond assistance, and $285 million for direct disaster loans. Of course, the largest part of our credit budget is the $3.2 billion for the 7(a) general business loan guaranty program.

For our fiscal year 1991 specialized Minority SBIC, or MESBIC program as it is called, we have requested $80 million in guarantee authority that would replace the fiscal year 1990 budget of $31 million in direct assistance and $49 million in guarantee authority. Under the fiscal year 1990 request, the interest rate on the money furnished to these MESBIC's by SBA would be subsidized at three percent below Treasury's cost of borrowing for the first five years of the ten-year debentures issued by SSBIC's.

Our budget request does include an increase in the surety bond guarantee authority, taking the program up to $1.5 billion. That, Mr. Chairman, is a $250 million increase in authority over the fiscal year 1990 level. Surety bonding is one of the very basic needs of many businesses, especially those who are in the construction industry, and the demand for that program is up quite a bit.

We continue to commit to making the bonding process more accessible to small and emerging contractors, including minorities and women who often find it difficult to obtain surety bonding.

As for our disaster loan program, we are requesting loan-making authority for fiscal year 1991 in the amount of $285 million, and we believe this amount should be adequate for what we hope will be an average disaster year in fiscal year 1991 unlike this year. And you should also know, Mr. Chairman, that we are projecting now that we will be spending about $925 million for our program for this fiscal year, which includes about $750 million for the "Hugoquake" so that we do have enough money on hand within our 1991 authority.

Finally, Mr. Chairman, as part of a government-wide initiative to phase out direct lending in favor of guarantee lending, we are requesting that, with the exception of this disaster assistance program our authority for direct business lending in the amount of $77 million be converted to guarantee authority. This initiative also excludes the $5 million for the Section 8(a) loan program which, of course, you in the Congress passed and President Bush signed into law on June 15, 1989.

In an effort to move toward actuarially sound programs and to offset default costs that the SBA incurs, we propose to increase guarantee fees on business loans, investment company loans and minority investment company loans. This proposal meets the goals of a long-range government-wide program to transfer the cost of Federal programs from the general taxpayer to the direct recipients of program benefits and to make the programs more self-sufficient.

The budget proposals of other Executive Branch Agencies, such as the Department of Transportation, Labor, and Agriculture, also include fees to offset the cost of doing business. Our proposal would increase the guaranty fee on business loans from two to five percent. The guaranty fee on Small Business Investment Company loans would be increased from 1.2 to 5 percent, and the fee associated with the MESBIC, or minority investment program, would be increased from 1.2 to 3 percent.

We do not expect that this fee increase would have a dramatically adverse effect on our programs. To give you an example of this fee increase and the impact it would have, the fee increase in the 7(a) program would raise the monthly payment on the average loan by about $75.

Finally, the credit budget in this fiscal year budget submission does not include any proposals at all for asset sales.

The second major part of our fiscal year 1991 budget submission covers the Agency's request for a direct appropriation of $336 million to the Salaries and Expenses fund. The appropriation will finance all of the salaries and related expenses of the Agency and its non-credit programs. Of course, among the non-credit programs are the Small Business Development Centers, the Small Business Institutes, of which there are now about 600, the Service Corps of Retired Executives, the 7(j) technical assistance program, and others.

We are proposing to increase SBA's current authorized employment level by 61 full-time equivalent positions. These positions would be used in high priority areas such as procurement assistance, SBIC servicing, and minority- and women-owned small business programs. This increase also includes a request for the Office of Inspector General to assist in their efforts to prevent waste, fraud, and abuse.

We propose to nominally increase existing user fees by $1 million. These fees would be generated equally from the sale of business development publications and services of the Procurement Automation Source System, PASS. We are not asking for any new user fees.

It is also appropriate to recognize our budgetary support for the Minority Business Development Commission. We have included $865,000 for its operation in fiscal year 1991, an increase from this year's amount of $493,000. The Women's Business Ownership Act in 1988 created a new demonstration training program for women entrepreneurs and authorized $10 million for this program over three years, fiscal years 1989, 1990 and 1991. Congress appropriated $2 million for the program each of fiscal years 1989 and 1990, and in fiscal year 1991 our submission proposes $5 million.

The Agency's Small Business Development Center program has received tremendous support at the State and local levels, and estimates by the Association of Small Business Development Centers are that for every dollar of Federal funds now put into the SBDC program, at least $1.50 is put up by State, local, and private entities. So for this current fiscal year, there will be $50 million of Federal funds and $75 million of State, local, and private funds in the SBDC program. We expect this leveraging of Federal dollars to increase in amount and proportion in the future, and we are asking in fiscal year 1991 for an appropriation of $30 million. Because of their success, we propose that by the end of fiscal year 1992 the SBDC program could be independent from Federal funding.

Finally, the fiscal year 1991 budget includes requests for several management initiatives. A one-time request for $4.2 million is for relocation and consolidation of our central offices here in Washington. These offices are currently housed in six different locations. The move will take approximately six months, and during that time, we will be required to pay dual rent to GSA and must also cover the associated relocation expenses.

Our budget also includes a request of $3.5 million to replace our outdated mainframe computer. Both of these initiatives are already under way and are on target with our scheduled completion dates.

Finally, Mr. Chairman and members of the committee, we at the SBA believe that the President's budget is a very good-news budget for the Agency and a reflection of the Nation's commitment to the small businessmen and businesswomen who contribute so very much to our economy.

Thank you very much, and I would be happy to answer any questions that you have for me.

[The prepared statement of Ms. Engeleiter follows:]

SBA
U.S. Small Business Administration Washington, DC 20416

Statement of
Susan Engeleiter
Administrator
U.S. Small Business Administration
Before the
Subcommittee on Commerce, Justice, State,
the Judiciary and Related Agencies
Committee on Appropriations
U.S. House of Representatives
March 21, 1990

Mr. Chairman and distinguished Members of the Committee:

It is an honor to appear before you as I near the completion of my first year as Administrator of the U.S. Small Business Administration. I am particularly pleased to come before the Committee in this new era of the Agency's 37-year -old history - an era represented by President Bush's strong commitment to a renewed and revitalized SBA. I want to thank you and your colleagues for the assistance and support you have given the SBA since my arrival. I believe that we have one of the best teams in all of government. One member of that team, accompanying me today is the Agency's Comptroller, Lawrence R. Rosenbaum.

Fiscal Year 1991 Budget, the United States small business sector remains very dynamic. During the first nine months of 1989, more than 520,000 new corporations were formed, 98 percent of which were small businesses. At the same time, business failures declined 15.6 percent from the first nine months of 1988.

The FY 1991 budget will allow the SBA to continue serving those new, small enterprises and encourage the continued creation of more firms and more jobs. During my tenure as Administrator, this work will be guided by a number of goals formulated in a comprehensive process that solicited input from program professionals, industry and trade group representatives, and general practitioners in the small business community. These goals are to:

--- Improve SBA's program delivery, including the elimination of red tape in the administration of the Agency's programs.

--- Improve the Agency's outreach in an aggressive effort to make small business aware of the assistance SBA can provide.

--- Ensure equal access and opportunity for all Americans, including minority and women entrepreneurs, so they will be able to compete on an equal footing in the U.S. economy.

--- Improve the management and administration of the Agency to prevent waste, fraud and abuse.

Our FY 1991 budget requests $5.6 billion in program authority for SBA's "credit" programs and $336 million for non-credit programs and administrative expenses. The "credit" budget of $5.6 billion includes $3.8 billion for direct and guaranteed loans, $1.5 billion for surety bond assistance, and $285 million for direct disaster loans. The largest part of the "credit" budget is the $3.2 billion for the 7(a) general business loan guaranty program.

Today, I would like to announce a series of initiatives that we are undertaking in an effort to improve our financial services and the overall integrity of Agency programs. I would like to submit a copy of these initiatives for the record.

The SBA's FY 1991 budget request includes a strong commitment to our 7(a) loan guaranty program, by requesting funding at a level consistent with 1990 appropriations for the program. The Bush Administration believes this level of funding will help address the small business community's healthy demand for loans. We also believe that it will adequately fund several new guaranty programs added in recent years through legislation.

You have asked me to discuss SBA's loan portfolio and its health. As of January 31, 1990, SBA's total loan portfolio includes 245,911 loans worth $16.6 billion. Of these, 168,522 loans worth $5.6 billion are the result of direct SBA financing. This portfolio includes loans made through our business loan programs -- 7(a), Certified Development Companies, Small Business Investment Companies (SBICs), disaster assistance, as well as direct lending to veterans, the handicapped, and 8(a) firms. Since 1953, SBA's loan programs have resulted in more than $58 billion in funding to America's small businesses.

We are continuing to implement policies to improve the quality of our loan portfolio. In 1982, SBA launched its Quality Lending Program. This Program is designed to improve all SBA lending and is based upon a philosophy in loan processing which emphasizes quality rather than numerical goals. As a result of that initiative, the SBA today requires from its borrowers a more clear picture of their ability to repay their loans.

As of January 31, 1990, the 7(a) general business loan guaranty program accounted for $7.9 billion of SBA's loan portfolio, with 66,383 loans outstanding. It is important to note that within the 7(a) general business loan program 16 percent of all loans are provided to minority-owned-firms and 14 percent are directed toward women-owned-firms. The dollars loaned to small businesses through the 7(a) program come from SBA's lending partners, primarily commercial banks around the country. From 1953 to date, the total cumulative loss rate on 7(a) business loans is 8.2 percent of the total amount disbursed. However, this rate does not include anticipated losses from repurchased guarantees that are still in the Agency' liquidation portfolio. The ultimate loss rate for the 7(a) program, including recoveries on the liquidation portfolio, currently is 12.7 percent.

Based on the method used by commercial banks, SBA's loss rate in the 7(a) program appears more favorably. The latest loss rates reported by the FDIC show that in 1987 the loss rate on commercial loans by banks were approximately 1.2 percent. SBA's FY 1989 loss rate based upon the same method is 3.3 percent. This figure shows an improvement over previous years, when losses averaged just under 4 percent. In the disaster loan program, the FY 1989 loss rate is slightly higher, 3.9 percent. The difference between the commercial banks' loss rates and SBA's loss rates are not significant when one recognizes SBA's mission as the "lender of last resort" to small business.

The 1991 budget proposes substantial assistance to the venture capital needs of small businesses, including minority businesses, through the Small Business Investment Companies (SBICs). We have just completed a major review of the SBICs liquidation process.

This review included how we value the portfolio, liquidate the assets, and "charge off" loans. We are seeking new ways to reduce the Federal Government's exposure to losses. We are updating our procedures manuals, closing out inactive cases, developing better procedures for valuing assets, creating liquidation plans for individual cases, and improving management information and recordkeeping systems. We are hiring additional staff to provide better oversight of the portfolio.

The FY 1991 specialized minority SBIC budget request for an $80-million guaranty authority would replace the FY 1990 budget of $31 million in direct assistance and $49 million in guaranty authority. Under the 1991 request, the interest rate for this program would be subsidized at 3 percent below the Treasury's cost of borrowing for the first five years of ten year debentures issued by specialized SBICs.

This "guaranty" initiative was congressionally mandated in the FY 1990 appropriation. As a result of that legislation, SSBICs will be allowed to sell their debentures through the SBIC Funding Corporation, an arrangement previously limited to regular SBICs. I am proud to say that this statutorily-required change will be implemented in this month's SBIC funding, truly allowing SSBICs to leverage their funds.

Our budget request also includes an increase in surety bond guarantee authority to $1.5 billion. This represents a $250 million increase in authority over the appropriated authority for FY 1990. Surety bonding is clearly one of the needs of many businesses, especially those in the construction industry. The SBA continues its commitment to make the bonding process accessible to small and emerging contractors, including minorities and women, who find bonding unavailable to them.

As you know, legislation has mandated that SBA establish a pilot program to encourage the larger surety companies to help provide surety bonds to small businesses. The SBA has notified the surety bonding community that we are ready to accept their participation in this new Preferred Surety Bond program. The final regulations for this program have now been completed.

In recognition of the growing importance of surety bonding assistance to small business, SBA has begun upgrading its surety program. A reorganization meant to elevate the importance of the surety program is pending. Also, we have announced a nationwide search for a new Director for the program.

In FY 1989, SBA's Office of Procurement Assistance saved the Federal Government more than $280 million through its Breakout and Certificate of Competency programs. This office will be expanded through this FY 1991 budget request. By calling for the appropriation of funds for an additional 30 procurement positions, this budget reflects the Bush Administration's commitment to increasing small business' share of federal procurement dollars. The cost of these positions will be more than offset by the savings generated through SBA's Procurement Assistance programs.

As you are aware, the Business Opportunity Development Reform Act of 1988

became law on November 15, 1988. That statute mandated positive changes in the 8(a) program by calling for a greater emphasis on the business development aspects of the program and an increase in the number and diversity of participating firms. The law also took appropriate steps to ensure that program benefits accrue only to eligible individuals and businesses.

SBA published final regulations to implement the statute on

August 21, 1989. When I was sworn in as SBA's Administrator last May, the public comment period for SBA's proposed implementing regulations had just closed, and the Agency was in the process of reviewing more than 300 comments received during this period. The final 8(a) program regulations published on August 21, 1989, represent a significant revision to the proposed regulations and reflect the goals of making 8(a) program criteria less subjective and providing equal access to program benefits for all eligible individuals and firms.

I am pleased, Mr. Chairman, to report today on the noteworthy progress that we have now made in our continuing efforts to implement this very complex legislation and the myriad programmatic changes it mandated.

In accordance with the provisions of the statute, on January 16, 1990, SBA began operations in its 10 Division of Program

Certification and Eligibility field offices located in SBA's regional offices. In addition, concurrent with the establishment of the Division, we have prepared, printed in bulk and distributed for field use, the new 8(a) application forms mandated by the Business Opportunity Development Reform Act of 1988 (Public Law 100-656).

Pursuant to the statutory mandate to emphasize the business development nature of the program, during the past year, we have held 20 sessions to provide training to more than 500 agency employees. Training has included orientation on the new Business Plan form, financial analysis training, and intensive program eligibility instruction for the new COD staffs.

We have also taken steps to implement the statutory mandate that manufacturing contracts in excess of $5 million, and contracts in excess of $3 million in all other industries, be awarded through competition among eligible 8(a) firms instead of by sole source. To date, we have accepted 40 procurement opportunities worth over $200 million for the 8(a) competitive process.

Finally, we have taken steps to implement special provisions of the Act relating to 8(a) program applications and participants that are owned by Indian Tribes. To assure that this implementation process continues appropriately, SBA has established and staffed a position within its Office of General Counsel to coordinate Native American issues within the Agency.

Mr. Chairman, in a relatively short time, SBA is well on its way to implementing all the new provisions of Public Law 100-656. I am very proud of the Agency's accomplishments in achieving this difficult task. As well, it is appropriate to recognize our support for the Minority Business Development Commission by including $865,000 for its operations in FY 1991--an increase from this year's amount of $493,000.

Thanks to the action of the Congress, the disaster program has more than adequate loan-making authority in our revolving fund account to handle last year's disasters, including two sizable disasters, Hurricane Hugo and the Loma Prieta earthquake. We are requesting loan making authority for FY 1991 in the amount of $285 million. We believe this amount should be adequate to meet expected obligations of an "average" disaster year. Moreover, our fund balance will continue to grow as we receive repayments from the large loan volume disbursed in FY 1990.

To put our disaster activity into perspective, let me mention the Agency's involvement in recovery efforts after Hurricane Hugo and the Loma Prieta earthquake. To respond to the magnitude of these two disasters, SBA expanded its disaster staff from 325 to 1,550. Through February, 1990, SBA had received 66,557 loan applications. We have verified losses in 92 percent of these cases and we've completed action in 71 percent of the cases. We have approved 27,847 loans for a total of more than $550 million. We estimate that between $650 and $750 million will be provided to assist victims of the hurricane and earthquake disasters.

And, we have reached a milestone in our disaster assistance program: recently, we made our one millionth disaster loan. The SBA has disbursed $12 billion in disaster loans since the inception of the Agency in 1953.

Mr. Chairman, I would like to acknowledge the tremendous efforts of our field and central office personnel who did an extraordinary job during a season of unprecedented disasters. Our staff has received many compliments from the leaders of the affected communities and states.

The purpose behind all SBA credit programs is to provide credit to those who cannot obtain it on the open market. This concept should also guide our disaster loan program. Therefore, we propose to restructure the program, providing loans only to those individuals who cannot obtain credit in the private markets. For those individuals, we will continue to provide the necessary financing at the Treasury cost of borrowing.

Finally, Mr. Chairman, with respect to our financial programs we request that all direct business loans, in the amount of $77 million, be converted to guaranteed loans, with the exception of our disaster assistance program and the $5 million for the section 8(a) loan program which the Congress passed and President Bush signed into law on June 15, 1989. The phase out of direct lending in favor of guaranteed lending is part of a government-wide initiative. Direct loan programs are more costly to administer and can result in larger losses to the Federal Government. In addition, guaranteed lending benefits the borrower by establishing a track record with a private lender, which will assist the borrower in its future credit needs.

Guaranteed loans are also more beneficial to the government because they allow us to serve more small business clients by leveraging resources. Also, to move towards actuarially-sound programs and to offset default costs that SBA incurs, we propose to increase the guaranty fees on business loans, investment company loans, and minority investment company loans. This proposal meets the goals of a long-range, government-wide program to transfer the cost of federal programs from the general taxpayer to the direct recipients of program benefits, and to make the programs more self-sufficient. The budget proposals of other Executive Branch agencies, such as the Departments of

Transportation, Labor, and Agriculture also include fees to offset the cost of doing business.

Our proposal would increase the guaranty fee on business loans from 2 to 5 percent. Small Business Investment Company loans would be increased from 1.2 to 5 percent. The Specialized SBICs or "MESBICs" program would be increased from 1.2 to 3 percent. We do not expect the fee increase to have an adverse effect on the programs. For example, the fee increase in the 7(a) program would raise the monthly payments on the average loan by a nominal $75.

Also, we propose a modest fee of .06 percent on 7(a) general business loan secondary market transactions. This proposal is in line with other agencies, such as HUD, that currently sell FHA loans through the Government National Mortgage Association in the secondary market with a similar fee attached. This fee is designed to insure against potential losses from the additional Federal guaranty on the timely payment of principal and interest to investors in the secondary market program.

The second major part of our FY 1991 budget submission covers the Agency's request for a direct appropriation of $336 million to the Salaries and Expenses fund. This appropriation will finance all of the salaries and related expenses of the Agency, including its non-credit programs. Among the non-credit programs are the Small Business Development Centers (SBDC) program, Small Business Institutes, the Service Corps of Retired Executives, and the Section 7(j) program, which offers 8(a) firms and other minorities technical and management assistance.

We are proposing to increase SBA's current authorized employment level by 61 full-time equivalent positions. These additional positions will be used in high priority areas such as procurement assistance, SBIC servicing, and minority-and-women-owned small business programs. This increase also includes a request for the Office of Inspector General to assist in their efforts to prevent waste, fraud and abuse.

In non-credit programs, we propose to nominally increase existing "user fees" by $1 million. This includes a $500,000 increase from the sale of business development publications and services of the Procurement Automation Source System (PASS).

Mr. Chairman, the contributions of women to the health and size of our economy have grown considerably in recent years. Between 1977 and 1987, the number of women-owned businesses increased from less than 2 million to almost 4.5 million. These enterprises have prospered. The average receipts for women-owned businesses have increased more than 27 percent since 1980.

The FY 1991 budget submission reflects continuing support for several SBA efforts to build upon these positive trends among women-owned companies.

The budget submission contains $500,000 to continue the work of the National Women's Business Council. As you know, Mr. Chairman, this Council was created by the Women' Business Ownership Act of 1988 to study a variety of issues and to make annual recommendations to the Congress and President on initiatives in procurement, access to credit and other areas. Late last year, I was honored to be appointed by the President to chair the Council. The Council held its first meeting in January, and established four goals. We will focus on data collection, credit and bonding issues, international trade, and procurement.

Two other congressionally authorized programs for women-owned enterprises are also fully operational and are reflected in our 1991 budget. The Women's Business Ownership Act of 1988 created a new demonstration training program for women entrepreneurs, and authorized $10 million for this program over three years - Fiscal Years 1989, 1990 and 1991. Three demonstrations programs funded in 1989 are now fully operational; a fourth will be in operation by April. More than 30 proposals have been received for 1990; we anticipate that this year's grants will be announced this Spring. Congress appropriated $2 million for the program in each of Fiscal Years 1989 and 1990. The FY 1991 submission proposes $5 million.

The Women's Business Ownership Act also created a new small-loan program under SBA's 7(a) loan guaranty program. This program is meant to encourage more lenders to issue guaranteed loans of less than $50,000, providing assistance to an underserved segment of the small business community. Smaller loans are expected to be particularly useful to women business owners, a sector dominated by service enterprises that typically need less capital. Regulations for the small-loan program were issued in September, and loans are now being made.

Overall, the 1991 budget request for $6.4 million for the Office of Women's Business Ownership, including $5 million for demonstration training grants, will allow SBA to meet the needs of the fastest growing sector of the American business community by increasing its outreach to women-owned businesses. The remaining $1.4 million will be used for the management and operations of the Office of Women's Business Ownership.

Mr. Chairman and Members of the Committee, the future of America's business lies with our ability to compete in the international marketplace. The SBA is working with the small business community to promote their prospects overseas. The

SBA's Export Revolving Line of Credit (ERLC) is generally a short-term loan of no longer than 18 months and is used to finance materials and labor for dedicated export production. The maximum amount of this loan was increased from $500,000 to $750,000 by the Omnibus Trade Act of 1988. The program provided $10.5 million in capital for small exporters in Fiscal Year 1989, in addition to $26.2 million provided to exporters under the SBA 7(a) general business guaranty loan program.

In 1989, we also implemented a new loan program for exporters, the International Trade Loan program, which was established by the same 1988 Trade Act. The International Trade Loan program provides guarantees for loans up to $1 million and can be used by small businesses for capital expansion for export purposes. Users of an International Trade Loan may also combine it with an ERLC up to $250,000.

Additionally, I have met with the leadership of the Overseas Private Investment Corporation (OPIC) and the Export-Import Bank to pursue joint efforts to make the government's targeted credit enhancement programs simpler and easier to use for America's small exporters.

SBA also has been active in providing technical assistance to small firms interested in exporting. During FY 1989, SBA sponsored or cosponsored approximately 600 export seminars and workshops across the country, reaching more than 25,000 small business persons. Some of these seminars were major events, such as a two-site conference on the U.S.-Canada Free Trade Agreement, which attracted more than 2,000 participants last June. Others were local seminars, attended by small business persons throughout the country.

In addition, we have forged an excellent working relationship and atmosphere of cooperation with the Department of Commerce. We have assisted in the Department's recent Matchmaker Trade Missions to Canada, Europe and Asia.

As we all know, some areas of rural America have not shared in the prosperity of our nation's record economic expansion in recent years. I believe that entrepreneurship and small business development are keys to helping revitalize our rural communities, and I believe the Small Business Administration has a critical role to play.

In support of the Rural initiative announced by the White House on January 22, I announced on January 24 a 13-point initiative for SBA to focus more effectively on rural economic development. A study published by our Agency last June found that our major financial programs - 7(a) general business guaranty loan program, Development Company Loans and Surety Bond Guarantees - are reaching rural America in rough proportion to the number of people living there. About 23.5 percent of the U.S. population lived in rural counties in 1986; about the same percentage of our major financial programs goes to those areas.

But that's a nationwide average. We believe that some rural communities may not take advantage of our 7(a) loan guaranty program, the Certified Development Company program, Small Business Lending Companies, Local Development Companies or Small Business Investment Companies. Under the new rural initiative, SBA will identify under-served areas and take steps to target the programs more successfully to those areas.

Mr. Chairman, I am pleased to report to you today that the Small Business Innovation Research program has, since its inception in 1982, awarded in excess of 15 thousand funding agreements to direct a share of Federal research and development funds to small high-tech companies - the type of companies which are responsible for most of the nation's new products, processes and technologies. The eleven participating agencies continue to report high quality proposals and performance in this program. Significant innovative awards continue to be made in the areas of information processing, microelectronics, lasers, advanced materials, instrumentation, biotechnology and medical technologies. The growth prospects for commercialization appear very encouraging.

I have recently submitted to the Congress a notification of my intention to move the Office of Innovation, Research and Technology from my office to that of the Associate Deputy Administrator for Special Programs. I believe that this will enhance the development of the full range of the commercialization responsibilities of the program and allow SBIR to be treated on an equal footing with the Agency's other key programs. Current SBA studies clearly indicate the remarkable commercialization potential of the technologies being developed under SBIR. It presently appears that over 20% of SBIR projects are going to the commercial marketplace. The SBIR program is currently authorized through fiscal year 1993.

Mr. Chairman, in FY 1991 our Office of Veterans Affairs will continue its outreach program to America's veterans. Between FY 1988 and FY 1989, our outreach efforts provided a 40-percent increase in the number of veterans receiving counseling by SBA and its resource partners. Within SBA's 7(a) loan portfolio, a full 20 percent of the funds benefit our Nation's veterans.

We anticipate that by FY 1991 all 50 states will be participating in the Agency's Small Business Development Center (SBDC) program. This program has received tremendous support at the state and local levels. Estimates by the Association of SBDCs are that for every dollar of federal funds now put into the SBDC program, at least $1.50 is put in by state, local and private entities. So for this current fiscal year there will be $50 million dollars of federal funds and $75 million of state, local and private funds in the SBDC program.

We expect that this leveraging of federal dollars will increase in amount and proportion in the future. In fact, because of this success, we propose that the SBDC program be independent from federal funding by the end of fiscal year 1992. To accomplish this objective, we are asking for $30 million in federal funds for fiscal year 1991 and $15 million for fiscal year 1992. During this phase-out of federal funding, we will work closely with the SBDCs to help them obtain funds from other sources and to show them how to be effective without federal aid.

And finally, the FY 1991 budget includes requests for several management initiatives. A one-time request of $4.2 million is for the relocation and consolidation of our Washington central offices. These offices are currently housed in six different locations. The move will take approximately six months, and during that time we will be required to pay dual rent to GSA and must also cover other associated relocation expenses.

Our budget also includes a request of $3.5 million to replace our outdated mainframe computer. Both of these initiatives are well underway and on target with scheduled completion dates.

Mr. Chairman and members of the Committee, we are ever mindful of the President's pledge to maintain a strong and healthy economy conducive to the prosperity of small businesses; that commitment to small business was reiterated in the President's State of the Union address in noting that we "encourage risk takers--especially those in our small businesses--to take those steps that translate into economic reward, jobs, and a better life for all of us." We, at the SBA believe the President's budget to be a "good news" budget and a reflection of this Nation's commitment to the small business men and women who contribute so much to our economy and to the opportunities inherent to this great land.

Thank you.

I will be glad to address your questions.

SBA'S NEW BUILDING

Mr. **Smith**. You mentioned your move, and that is to the building that is over the Metro stop down in Southwest.

Ms. **Engeleiter**. It's at the corner of 3rd and D Street, SW.

Mr. **Smith**. Right. I drive past there every day, so I see they are working on it.

Ms. **Engeleiter**. We will be real close at hand when we move.

COMPLETION OF NEW BUILDING

Mr. **Smith**. When do you expect it to be completed? What is the time schedule for moving in?

Ms. **Engeleiter**. It will be done gradually, and we envision starting the move in October or November of this year. The completion time period is the end of March of next year.

Mr. **Smith**. The building won't be complete, then, when you start to move in? The lower floors or something will be?

Ms. **Engeleiter**. Right. People will go in gradually as the interior floors are completed.

Mr. **Smith**. It is a wonderful location, really.

Ms. **Engeleiter**. It is. And I must say, from the relatively small size of our Agency in comparison to other Federal agencies, to be in six locations around Washington is very difficult for people to communicate with one another.

Mr. **Smith**. I see they are building another one a block up the street. I don't know who that one is for. But we built FCC a block the other way.

SMALL BUSINESS DEVELOPMENT CENTERS

You mentioned the Small Business Development Center program. That seems to be about the only thing you request a big reduction for. I just want to make clear on the record that I don't know where this proposal keeps coming from to reduce it, but there seems to be some lack of understanding of what that program is for and how it is supposed to permanently work. It is not a program that was intended to be phased out as states come in. On the contrary, it is a cooperative partnership program. And it was ten years ago now that it was set up with a total of $65 million, and no single State can get more than its share, as you know, by population. That way it has never all been used because some states are not yet in the program. But we have set up the share and the cap so that some states wouldn't get in early and get more than their share, and then the money wouldn't be there for others.

It has been a very successful program. As we have increased—and this is intentionally—as we increased the SBDC's, we have reduced management assistance within the agency. I mean we have been offsetting it. I think this is a better program. We get states to pay in part of the money, or we are using university assets in most cases, which are very valuable. At the beginning some of the professors didn't like it because they just didn't want to be bothered, but now they like it. They find out it is an advantage to them as well as to the small business person, that they get to help the small business person get some hands-on experience.

Now we are at the end of ten years. There is going to be a census. And it presents a little different problem because we also have a $200,000 minimum, and some States after ten years find they can't operate with that kind of a minimum, even though they put up $200,000. Yet with the change in the population, some other states will be getting more and less. So we have got to revise it. It is going to take $75 million instead of $65 million for a nationwide cap.

We have got to be thinking in terms of legislation, I think, to increase it to $75 million, with a hold-harmless for the ones that are getting whatever they are getting, and some increase for those small states to get more than $200,000 to take care of a little inflation.

But the point I want to make is that this was never intended to be a program where we would encourage people to get into a partnership and then we would bail out. It is a partnership program. And the figures you cite showing that now it is up to the point where they are putting up 75 for 50 Federal indicates that they accept the partnership. And as they have the availability of funds to do so, they will increase their side of it. But it just was never intended and it would be unfair for us to be reducing our side as they increase theirs.

I am not proposing to increase it other than the two instances I mentioned. But whoever it is down there that keeps coming back with these proposals to reduce SBDC's apparently don't understand the program. In addition to that, it is completely contrary to all of the statements that the Secretary of Commerce has made in the last year about wanting development, help private industry small business do more, get in to depend on them to help us with competition and exports and so forth. That proposal in your budget is just inconsistent with the Secretary of Commerce's approach to things, and with the program itself.

Where does this come from, this idea all the time that that program ought to be reduced?

Ms. ENGELEITER. Well, I cannot speak too much historically, but I can say that I think there has been what should be considered positive movement from your vantage point. In fact last year the Administration requested to have no appropriation for this program.

Mr. SMITH. Right.

Ms. ENGELEITER. And this year, the President is asking for $30 million. You face this tremendous task of trying to find enough funding to compensate for the deficit that we are facing.

And wherever we can find ways when the private sector and local governments are willing to come up with the money, it is our responsibility—I think it is the view of the Administration—to offer suggestions as to where you can reduce expenditures and keep quality programs.

So I think that is probably the genesis. At the Agency we have been working quite diligently. As I think I shared with you, Mr. Chairman, we do expect that by the end of the year all 50 states will be participating in the program.

So we do view it as a positive program.

Mr. SMITH. In California it is coming back in?

Ms. ENGELEITER. Yes, it is.

Mr. **Smith**. That is a big state. So that means we will need $65 million at the end of the year, instead of the $30 million, right?

Mr. **Rosenbaum**. Mr. Chairman, eventually with all 50 states, yes, you would require the $65 million.

Mr. **Smith**. But they will not all at the full amount?

Mr. **Rosenbaum**. They are not all fully funded because they will gradually move up to their cap amount. So, California will require something less than their statutory cap amount, and it will probably take them two or three years to get to the cap.

Mr. **Smith**. What do you think the total of their request, that they are entitled to, will come to?

Mr. **Rosenbaum**. Could I provide that for the record?

Mr. **Smith**. Yes, you can provide that for the record.

[The information follows:]

California SBDC Request

The proposal from California is anticipated during the 3rd quarter of this year. They will come in at $700,000 and have a cap of $6,688,500.

Ms. **Engeleiter**. We are not sure what the exact amount is.

Mr. **Smith**. Yes, it would be somewhat less than $65 million, but it is going to be substantially more than $50 million.

Mr. **Rosenbaum**. Including California this year, the $50 million that was appropriated for this year is sufficient to handle the new entry of California.

Mr. **Smith**. I see.

PREFERRED SURETY GUARANTEE PROGRAM

Then I noticed that the surety guarantee program, as you indicated, is a very important program. Small business contractors, especially that need surety guarantees in order to even bid on government projects, found it very difficult to get them.

And so they need that program very badly and it has in it government savings by getting extra bidders, it has saved a lot of money at the government.

But it is paying its own way, is it not, and so you are asking an increase in the authority, but as a matter of fact, what is the net cost to the government, or the net profit, however it is programmed?

Ms. **Engeleiter**. Mr. Chairman, the net expense to the Federal government over the life of the program has been $251 million. This is the net cost of the government on the over $14 billion in surety bonds guaranteed by the SBA since 1971. As you know, the new law that was passed in 1988 authorized a new preferred surety program.

I would like you to know that the regulations for that program are finished, they have cleared OMB and they are now being published in the Federal Register. We already have several large surety companies that are about to sign up for that program.

So this is very positive and will provide even more bonding to the small business sector.

OMB REQUEST FOR SBDC'S

Mr. **Smith**. Now, before we get off into SBDC's what did you ask OMB for?

Ms. **Engeleiter**. Fifty million dollars.

Mr. **Smith**. And that is where it was cut.

Are they the ones that—you know, we have so many faceless people around, we have got 650 people and we do not know who we are dealing with—are they the ones that do not understand the program? You understand that your agents—let us put it the other way around—do you understand your agents?

Mr. **Rosenbaum**. It appears that there is a breakdown in communications between what you are saying and what some people in the Administration are saying.

Mr. **Smith**. At OMB you are talking about?

Mr. **Rosenbaum**. Yes, Mr. Smith.

Mr. **Smith**. Did you think that when you asked for $50 million, that it would not quite cover what you need now?

Ms. **Engeleiter**. We were not sure, but at least it was the appropriated level of this year. This current level request was similar to what we were asking for in a number of our other programs such as 7(a) guarantee. We did not know the exact requirement for fiscal year 1991.

Mr. **Rosenbaum**. Mr. Chairman, you have to understand that when we got involved in the budget process with OMB, that was early this summer. Ms. Engeleiter and her staff were just coming on board, and we were going through transition. We went to OMB with the intent of asking for a current services level of funding so that we would have an opportunity to sit down with the Associations, with the committees, with OMB and negotiate a realistic and meaningful level of funding for fiscal year 1991.

Mr. **Smith**. So that the $50 million was not a calculation that was the exact amount needed?

Mr. **Rosenbaum**. No, it was our proposal really to keep things status quo for one year, so that Ms. Engeleiter would have an opportunity to assess the program and then make a recommendation on the future Federal funding level to be requested.

Mr. **Smith**. So then you will get us the figure that you think will really be needed?

Mr. **Rosenbaum**. Yes, we will provide that for the record.

Mr. **Smith**. To match all of the eligible requests that will be made?

[The information follows:]

Our estimate for SBDC's in FY 1991 is $52,011,992.

Ms. **Engeleiter**. Mr. Chairman, if I might say this, in regard to this program. I know that you are a very big supporter of it, and it is a very fine program. In your state it is an excellent program and in other parts of the country it is also an excellent program.

If we are going to look to increased funding to be able to accommodate all states, we would really like to be able to work with you to see how we could ensure that all of the SBDC's provide the quality service that the best ones are providing.

Mr. **Smith**. And I think that is the——

Ms. ENGELEITER. And we are limited right now, as you know, through the statutory restriction on regulations.

Mr. SMITH. That is the reason and we support knocking them out if they do not—California, there was no objection from here.

Whenever they do not do what they are supposed to do, and try to use it, well, when they have to put up at least as many of their own dollars as they get federal, that helps a lot in the administration of the program.

But we have got no quarrel with making sure that they do operate the program the way that it is supposed to.

But I am not aware of any serious problems now, and if you have some, I would like to know about them.

Ms. ENGELEITER. Well, right now, as you know, we are not allowed to write any regulations to oversee the program. The oversight is through a contractual arrangement, through our field offices. You might at least want to look at the concept of having some regulatory control there.

That is just a thought.

Mr. SMITH. Well, this is a little bit dangerous because—and maybe we have gotten away from a core of it, but in the early days of the program, SBA really wanted to operate like it was their personal little program to be operated out of their own shop and they could make all of the decisions.

Whereas in this program we have universities involved, and we have state legislatures putting up money and they have to have a share in the decisions, although they must meet minimum requirements.

Ms. ENGELEITER. Right.

And as I have had the opportunity to get around the country and visit a number of SBDC's, as you know, I have found that there are local conditions in different regions or states where you have to tailor what the conditions are for the program.

But there is probably some sort of a middle ground here.

Mr. SMITH. Yes.

Well, I will ask some more questions, but I will yield at this time to Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Well, Ms. Engeleiter, welcome on board, congratulations, and good wishes to you.

Ms. ENGELEITER. Thank you.

Mr. ROGERS. You have got a good background, I think, for the job that you are undertaking and let me thank you at the outset and commend you for your efforts to advocate SBA's mission and to raise its profile, and to make it an effective part of our efforts to be productive and competitive in the world scene.

SBA has been needing sort of a boost in its profile and morale for some time, and I think you have brought that to the Agency and I thank you for that.

Ms. ENGELEITER. Thank you, I appreciate that.

Mr. ROGERS. Also, I have have a copy of your publication called Small Business Initiative for Rural America, a rather large program, for focusing on bringing rural development initiatives to every nook and cranny of America, especially the small, rural communities.

I find it very refreshing. It looks to be very comprehensive.

RURAL DEVELOPMENT

Can you comment on that effort and what you expect of it?

Ms. **Engeleiter.** Sure, I would be happy to.

We assessed what kind of a job the Small Business Administration does in delivering services to what, under the Department of Agriculture's criteria, are defined as rural counties. We found that 28 percent of loans made in our largest program, 7(a), goes to rural areas, while 23 percent of the Nation is considered to be rural in population.

We also found that there were some areas where our programs were under-served. So we are striving to do a variety of things. We are striving to increase our loan guarantee volume in rural areas and we will be doing that through outreach with the banks throughout the country that are located in the more rural areas.

We are really going to work to try and increase the number of certified development companies that are serving rural areas, because that program does a fine job, both in urban and rural areas, and in rural areas I think they are particularly useful.

We are also going to try and increase the number of our small business lending companies, the SBLC's and market those throughout the country in the rural areas through our field offices.

We are also going to try and create more small business investment companies to serve rural areas and have been discussing with the National Association of Rural Electric Cooperatives, as to how we can work together to get more SBIC's in rural areas. Right now, they are predominantly located in the more urban areas of the country.

We are trying to do a lot more outreach and education in the rural areas. We are going to be focusing on rural exporting. In these past six months, we have tested or tried a couple of rural exporting conferences that were extremely successful with other Federal agencies. We would like to do a lot more to encourage rural businesses to export.

We are also launching what we are calling a rural access to information program which includes mobile assistance centers that were started as a pilot project over the last couple of years and have turned out to be quite successful.

We also have a function under Federal Law to oversee other Federal agencies in their rural economic development responsibilities and we are taking that responsibility quite seriously.

So these are just a few of the things that we are working on.

Mr. **Rogers.** Well, I find that quite exciting.

I am really thrilled that you are doing that. As you and I have discussed, in my own district we formed the Southern Kentucky Economic Development Foundation which is an effort to do a lot of the things that you are talking about here, giving 27 counties a chance to cooperate together across, traditionally, very sacrosanct county boundary lines, pooling our resources, and pooling our talent, in order to reach a better life for each of them.

And it is working, and I look forward to that organization working in conjunction with you on many of the things that you are doing here.

So I congratulate you.

CAPITAL ACCESS IN RURAL AREAS

Let me ask you about the access to capital in rural areas, particularly in the business loan guarantee program. Do you feel that rural areas are under-served by the 7(a) program?

Ms. **Engeleiter**. Well, our figures indicate that 28 percent of all of our 7(a) general business loans are going to what are legally termed as rural counties, under the Department of Agriculture's definition. While 23 percent of the Nation's population meets the same definition.

If you look at those figures, we are proportionally serving rural areas, but if you look at the banks that are currently participating in the 7(a) program and you look at the banks historically, there were 11,000 of them throughout history that have participated in the 7(a) program. The distribution of these banks is not in equivalent proportions. I think that we could be doing a lot more, better than a proportional share in rural areas, in having banks participating.

Because there are some unique problems, as you are well aware, in rural areas, and in some ways, less availability for credit.

Now that there is a perception in the banking community that the Agency is here to stay and that not only were you supportive in the last budget of the 7(a) program, but the President also is asking for an increase in the 7(a) program. I think through marketing efforts using State Banking Associations, that there might be more interest, more than there has been in many years, for some banks that have gotten out of the program or have never been in the program, to get in it.

One major marketing opportunity or challenge is to try and market our new export loan program in rural areas. Because just by their nature, many of the more rural banks are just not used to lending to small firms to export. It is just something that they are not accustomed to doing.

We have a wonderful vehicle in terms of the new loan that was put into the Trade Act of 1988. We can approve up to $1.25 million in lending for small firms, and a number of firms in rural areas would be very suitable to this kind of loan.

But we need to do a lot of marketing and education with rural banks in the area of rural export lending.

Mr. **Rogers**. Well, that is nothing new, of course, to you, but my sense is that the banks just simply do not want to fool with all of the paperwork and red tape and all that one of these loans involves, so they simply say "no" at the outset. There are far fewer SBA loans made in my district than are possible because there is little apparent incentive for banks to get involved with them, versus the work that is required to process them.

It is going to take a massive marketing program, but more than that, it is going to take some way to reduce the paper work and to reduce the dreariness of going through the process of trying to get an SBA guaranteed loan.

MINI-LOAN PROGRAM

Ms. **Engeleiter.** One new loan program that was added as a result of H.R. 5050, that was passed in 1988, and has now been implemented, is our mini-loan program for loans under $50,000.

Banks either in rural or urban areas were not showing a particularly great interest in doing these smaller loans, which many firms need. Our new loan program gives a 1 percent financial incentive for the banks to make those loans, and it also includes the use of simplified forms for these loans. We now have brochures available for banks and for customers to promote that program.

There has been a lot of interest and a lot of activity in this loan program and I think that will help considerably to make these smaller loans available.

FUNDS FOR DISASTER LOAN PROGRAM

Mr. **Rogers.** Now, on disaster loans, last year we provided substantial new funds for disaster loan due to the Loma Pricta earthquake out west and Hurricane Hugo.

Have those funds been adequate and will they prove to be adequate?

Ms. **Engeleiter.** Yes, we anticipate that those funds will be more than adequate. Our current estimate is that we will be approving up to about $925 million as a result of last year's major disasters and other disasters. This includes roughly $750 million for the Hugo hurricane and California earthquake.

We did, at one point, this year, increase our disaster employment up to 1,500 people, from our normal 300 in the disaster area. At one point, we had 74 disaster centers open.

We have received 67,000 applications for loans to date, we have had 32,000 approvals for $654 million and have had disbursements on 18,000, or 58 percent of all of the loans that have been approved.

And just for your information, 83 percent of all loans approved went to homeowners and 17 percent of all loans went to businesses. But we do think that we will be in good shape in terms of this fiscal year.

Mr. **Rogers.** Will you have enough money for the smaller disasters?

Ms. **Engeleiter.** Yes, we will have plenty of money, and that is why we are only asking for authority for $285 million for next fiscal year. That level will accommodate a normal year of disaster assistance.

Mr. **Rogers.** Well, the Chairman, of course, covered SBDC's with you fairly well, which he should, because he is the father of those centers.

And I noticed that he has, in the past, been somewhat critical of the way that the Administration has been handling this program. Or not handling the program.

But if he were here, I would again point out to him that you are the first Administrator in 10 years who has requested any funds for the SBDC's and, in fact, you requested the continuation of the program at last year's level which OMB submitted to us in part.

So my congratulations to you for that.

Ms. **Engeleiter**. Thank you.

Mr. **Rogers**. Well, I'm glad that we've got you on board. I think, as I indicated before, you bring to this job a rural background and a small business connection that I think will be refreshing for the Agency. And you are very aware of the needs. And I think you have done an excellent job in the very short span of time you've been here in dissecting the problems that small business in rural areas of our country face.

I am again especially complimentary of you on the rural American initiative you put together, and look forward to helping you implement that in every inch of its dimensions.

Ms. **Engeleiter**. Thank you very much.

Mr. **Rogers**. You bet.

DIRECT LOANS

Mr. **Smith**. You are proposing to eliminate the $77 million for direct loans. What was your request to OMB on that item?

Ms. **Engeleiter**. Our request on the direct loans was $45 million.

Mr. **Smith**. To what extent will—how much did you get this year?

Ms. **Engeleiter**. We got $82 million.

Mr. **Smith**. You had $82 million, did you, in 1990?

Ms. **Engeleiter**. That's right, Mr. Chairman.

Mr. **Smith**. To what extent do you expect it to be used, all of it?

Ms. **Engeleiter**. All of it.

Mr. **Rosenbaum**. Mr. Chairman, all with the possible exception of the 8(a) direct money, which is going out a little bit slow right now. We feel that it will pick up. It's a new program and needs to be integrated with the new 8(a) program that we have put in place.

So all $5 million of it will probably be used but approvals are a little slow at this time. Funding for all the other direct programs should all be used.

Mr. **Smith**. What's the average size of these direct loans?

Mr. **Rosenbaum**. About $88,000 this year.

Mr. **Smith**. What's the highest?

Mr. **Rosenbaum**. They can be statutorily approved up to $350,000.

Mr. **Smith**. But have they?

Mr. **Rosenbaum**. They usually range between $150,000 down to fairly small amounts.

Mr. **Smith**. Down to what?

Mr. **Rosenbaum**. Fairly small amounts, Mr. Chairman.

Mr. **Smith**. Actually, there are still a lot of banks that don't want to be bothered with a beginning business that only wants $50,000. That's the need for the program.

If there were banks everywhere that were anxious to guaranteed loans, we wouldn't have that difficulty. And to a large extent, it's women that want to get into a small business of some kind. And also people who don't have a great history of credit. They just don't want to be bothered. But that's still a case, isn't it?

Ms. **Engeleiter**. Yes, it is the case, Mr. Chairman. We have put into place the new loan program that was authorized in H.R. 5050, the small loan program that gives a one percent financial incentive to banks to make loans under $50,000.

And while that new program has not been in place for a very long period of time, we have found a lot of activity already and alot of interest.

While those loans are not geared toward women-owned businesses, the majority of women-owned businesses are still in the service sector and they are still small, although that's changing dramatically as time goes by.

So we do think there will be a disproportionate level of interest on the part of women business owners for these small loans. But this program has turned out to be extremely successful.

IMPACT OF BANK PROBLEMS ON DIRECT LOANS

Mr. **Smith**. Now, what impact has all these bank problems had on the need for direct loans? Have some of them, even in the past, made small direct loans and took some risks? Now that they have got less reserves available for risk loans, are they withdrawing to some extent in that?

Ms. **Engeleiter**. We are just commencing, Mr. Chairman, a major study within the Office of Advocacy this year. They, as you know, have a sizable research budget to study important issues like this. One of the major studies that we have underway, or soon to be underway, is to take a look at the availability of financing, whether it's debt financing or equity financing for small businesses.

Generally, because of all of the dynamics that are going on right now, the changes in the lending criteria for the S&Ls and a number of other dynamics, we are seeing a tightening of credit. Currently the data is mainly anecdotal, but we see an increase in interest in venture capital in our SBIC program, as well as interest in our 7(a) program.

But it is anecdotal, so we will be doing a major study in the Office of Advocacy, to be contracted-out, that should give us very good data on these issues.

OFFICE OF ADVOCACY STUDY

Mr. **Smith**. When will that—when do you expect——

Ms. **Engeleiter**. It will take about a year, unfortunately.

Mr. **Smith**. Oh, it will?

Ms. **Engeleiter**. Right.

Mr. **Smith**. Who's doing that study?

Ms. **Engeleiter**. We have just developed a request for proposal so it has not been awarded yet.

Mr. **Smith**. It will be contracted out for, is that it?

Ms. **Engeleiter**. Yes.

Mr. **Smith**. Mr. Mollohan?

PREFERRED SURETY BOND GUARANTEE PROGRAM REGULATIONS

Mr. **Mollohan**. In regard to the preferred surety bond guarantee program, have the rules have been written?

Ms. **Engeleiter**. Yes, they have.

Mr. **Mollohan**. Have they been promulgated?

Ms. **Engeleiter**. Yes, they have. And they have already been sent to the Federal Register to be printed, and should be printed very shortly.

SURETY BOND COMPANY RESPONSES

Mr. **Mollohan**. And you've contacted the larger surety companies?

Ms. **Engeleiter**. Yes, we have.

Mr. **Mollohan**. What kind of responses are you getting?

Ms. **Engeleiter**. There are three or four that are interested right now. We will be working further to see if there is more interest.

Mr. **Mollohan**. What is the incentive for doing it this way?

Mr. **Rosenbaum**. Mr. Mollohan, how are you doing?

Mr. **Mollohan**. I'm well. Thank you.

Mr. **Rosenbaum**. One of the incentives that they have for the new surety bond program is that there will be—the surety industry themselves will be able to represent the program directly for the Agency in the sense that they don't need to go through us for final bond guarantee approval.

They will be given an allotment of funds in a sense. Similar to our preferred lenders' program, they can guarantee bonds right on the spot without having to come back to us to receive approval.

It's a pilot program, as you know, and we will focus on three, four or five sureties, and allow them to operate in this capacity through the pilot to be assured that the process will work.

We are hopeful that this program will work a lot like our preferred lenders' program where they have the authority to obligate our funds. We then act more like a bank examiner, where we come in after the fact and review their performance.

RESPONSIBILITY OF SURETY BOND COMPANIES

Mr. **Mollohan**. Are the Surety Bond Companies just administrators or will they be at risk too?

Mr. **Rosenbaum**. Yes, they will have a risk. The program provides for the SBA to have a 70-percent exposure and the surety will have a 30 percent exposure.

Mr. **Mollohan**. So it's like the Bank Guarantee Program.

Mr. **Rosenbaum**. Very much so. As a matter of fact, the pilot was designed after our preferred lenders' program and the success we've had with that.

REORGANIZATION

Mr. **Mollohan**. You indicate that you expect to—hope to make the program more effective through a reorganization, and you have such a reorganization pending.

Does the pending reorganization simply incorporate this program into your existing system, or what kind of reorganization are you planning?

Ms. **Engeleiter**. Currently, that program is regulated along with the SBIC and MESBIC programs through our Office of Investment.

We think that it is one of our biggest and most important programs and deserves attention all on its own.

Plus you should know under the current situation at the Agency, both myself and my General Counsel are recused from dealing with the regulations at all because of conflict of interests with that program. Therefore, my deputy has been working with that program in terms of the specific regulations.

But I think will be very beneficial to the program to be able to have an elevated status within the Agency.

DIRECT LOAN PROGRAM

Mr. **MOLLOHAN**. Would you describe SBA's loan program, especially the the direct loan program for us?

Ms. **ENGELEITER**. Roughly 3 percent of our loans at the SBA are direct; 97 percent are guaranteed. The largest of our direct loan programs has been the disaster loan program of which we project doing about $925 million in lending this fiscal year.

The other direct loan programs include our veterans' direct program, our economic opportunity program, our MESBIC program and our handicapped program. We also have a program for which we are asking $5 million for the next fiscal year. That program is our 8(a) direct loan program. This is available to minority businesses that are participating in the 8(a) program or other minority programs. These are our direct loan programs.

Mr. **MOLLOHAN**. Are your existing direct loan programs very active?

Ms. **ENGELEITER**. The most active program this fiscal year, which was an unusual year, is the disaster lending program.

Mr. **MOLLOHAN**. Setting aside.

Ms. **ENGELEITER**. Yes, they're active. All the funds that have been appropriated for them are spent.

BREAKOUT AND CERTIFICATE OF COMPETENCY PROGRAM

Mr. **MOLLOHAN**. You assert that your Office of Procurement Assistance saved the Federal Government more than $280 million through its Breakout and Certificate of Competency Programs and that to continue saving the Government money, you will be adding 30 additional positions to the office.

It has come to my attention that on occasion it has taken considerably more than the 15 business days, that is required by Federal Acquisition Regulations for SBA to issue the Certificate of Competency to a requesting Agency.

Will the requested increase in staffing this program improve the timeliness of this program?

Ms. **ENGELEITER**. Yes, it should help considerably. That has been a successful program in terms of providing more competition for procurements which greatly benefits the taxpayers of the country, and also provides more equity for small firms to be able to compete. That is why we are asking for more positions for that program, to speed up the turnaround in terms of certification.

Mr. **MOLLOHAN**. I have a case where a certificate of competency was being looked at. While the application for the Certificate was under consideration, the requesting agency withdrew its proposal.

It's apparent to me why they withdrew the proposal. They didn't want it to go forward, and didn't want to be responsive to the certificate of competency.

Do you have any remedies for this? Do you have any way of looking behind the agency action to see if it's based upon a change in requirements, or whether it is based on their not wanting to do business where you said they should.

OFFICE OF HEARINGS AND APPEALS

Ms. **Engeleiter**. Yes, there are legal remedies throughout all of our programs to the Office of Hearings and Appeals.

Mr. **Mollohan**. Are you the initiators of that, or is the company——

Ms. **Engeleiter**. The company would be the initiator of that.

And so, program by program, there is a very clearly delineated chorus of action or appeals process for people who feel that they have not been properly treated. That is the Office of Hearings and Appeals. And I think it is a system that, by large, works well.

SBA DECISIONMAKING

Mr. **Mollohan**. Does the SBA have any remedy that it uses to prevent agencies acting like this?

Ms. **Engeleiter**. It varies quite a bit from program to program. There are certain programs where decisions as to participation in a program or granting of a loan do not by law and by design of the Congress come to my level.

A good example of this is the 8(a) program. This program has been designed to keep it from decisionmaking, on a case by case at my level. And I think that is very appropriate.

The Small Business Administration, also by design, is a very decentralized Agency. About four-fifths of our employees are outside of Washington, and much of the decisionmaking in a number of our programs, while there is overall program oversight in Washington, in the field.

BUSINESS OPPORTUNITY DEVELOPMENT REFORM ACT

Mr. **Mollohan**. Thank you. In your statement, you talked about the Business Opportunity Development Reform Act, under which a Small Business competitor demonstration program is.

How is this project going, and are the agencies meeting their goals in the targeted areas suggested by SBA?

Ms. **Engeleiter**. Are you speaking of the Women's Business Grant Program? I'm sorry. I believe that's what you're speaking of.

Mr. **Mollohan**. No, it is not. Let me submit this question for the record.

Ms. **Engeleiter**. Okay. Some of these Acts have very similar titles. That sounded like the Women's Business Ownership Act, but apparently it's not.

THE 8(a) PROGRAM

Mr. **Mollohan**. I would like to ask you a question about the 8(a) contracting for large corporations program.

I have heard of situations where a small 8(a) company, that is contracting with a larger company, gets a contract but the job is actually performed by the larger corporation, thus getting around the purpose is really the 8(a) program.

Are you all looking into cases like this at all? Do you see any abuses of the 8(a) programs and to what extent are you seeing are you addressing them?

Ms. ENGELEITER. I think what you are getting to, Congressman, is the idea of people fronting for someone else.

Mr. MOLLOHAN. Correct.

Ms. ENGELEITER. When I came to the Agency as Administrator last year, on May 1st, the new regulations for the 8(a) program had already been formulated in response to the legislation to alter the program. And that legislation, I view, as extremely helpful.

The regulations have been rewritten, and I was personally very involved in rewriting them. It took about four months last summer. One of the goals in the legislation and in the regulations that are now on the books, and we are now implementing, is to see to it that we don't have larger companies, or even smaller companies, who are fronting for another company. Between the law that was passed, here in the Congress and the new regulations, penalties have been toughened, have been increased substantially for people who do misrepresent who they are and whether they are eligible for the program.

I think you will see a much more level playing field. Also, we tried to take a lot of the flexibility out of that law. It was very clear who could participate and who could not participate, and we tried to really toughen up the standards as to the configuration of a company that is eligible.

I would say that both the law and the regulations have been very favorably received, both from minority businesses that participate, as well as other businesses that have complained about those regulations and the law in the past.

So it's still a little bit new and recent on the books. But we've had a very, very favorable reaction.

That was one of the very legitimate criticisms of the program. People were fronting for others, and the other common criticism was the lack of uniformity in the way in which the program was applied to people.

There was alot of subjectivity and we tried to take as much of that out of the program as possible.

Mr. MOLLOHAN. Madam Administrator, I would like to end by thanking you and your Agency for your help in looking at the Department of Energy's Morgantown Energy Technical Center's contract and its practices with regard to small disadvantaged and minority and women-owned businesses.

I understand that a decision on this case is imminent, and we appreciate very much your going in there and looking at the situation.

Thank you.

Ms. ENGELEITER. Thank you, very much.

Mr. MOLLOHAN. I have some questions to submit to the record, Mr. Chairman.

Mr. SMITH. Okay.

SBIC'S AND LIQUIDATION

Mr. Smith. Tell us about the SBIC's.

Ms. Engeleiter. The SBIC's?

Mr. Smith. The problems and what is being done about it; how much the losses will be, etc.?

Ms. Engeleiter. Mr. Chairman, as of late last year, we had an audit, that I think you are well aware of, one particular liquidation of an SBIC. It was the Inspector General's report on the EWE audit.

As a result of that particular audit that was done by our Inspector General, we were very concerned that there might be problems in the liquidation area throughout the SBIC program. Consequently, we moved very quickly to bring in an outside consulting firm, the Irving Burton firm, to work with us, and to take a look at two aspects of the SBIC program.

The first aspect that they have looked at and have delivered to me in a preliminary draft report is the liquidation process within the Agency. We hope to make this available to you before too long, once it is in final form.

The second portion, where we look at the regulations in regard to the program, has just been submitted in draft to me.

We are taking positive steps to address any problem areas identified in the draft report. Part of the reason for the requested increase in personnel in our overall budget is to put more people on the job of overseeing the liquidation of the program.

I do not yet have a full answer for you as to why the losses are up in the program, and why we have a number of liquidations that were not closed-out in the Agency over a period of time.

Some of it, of course, was probably due to the cutting back of staffing. But I would assure you that we are acting very quickly to remedy the problem and over the course of the next couple of years, we will need to be closing-out receiverships that have been open for many years, that were not closed-out in the past.

And there will be undoubtedly an artificially high loss figure in that program for the year in which this happens because of these receiverships that have been ongoing and not closed-out.

We also, in a very constructive fashion, hope to make some suggestions either as to changes in the law, or changes in the regulations as to who gets into the program. I think that it is fair to say that this program is very well intentioned, and there is certainly a real need for venture capital for small firms and for minority small firms. However, there have not been any major changes in the way that the program is regulated, even though the whole way in which businesses have been financed over the years has changed dramatically.

So we will be coming back to you and to the Congress making some suggestions for change once our study is complete.

SBIC RESPONSIBILITIES

Mr. Smith. Well, are there some that are not making the loans that was anticipated or not fulfilling their purpose of these investment companies?

Ms. Engeleiter. There are some that have not been fulfilling their regulatory responsibilities.

Mr. Smith. Mostly rely on getting money out of safe investments and not really giving the venture services?

Ms. Engeleiter. Yes, Mr. Chairman, that is what the second portion of our report, which we are just getting out, will look at.

The first portion simply looked at those SBIC's that were failing and what the Agency was doing, procedurally to deal with those failing SBIC's.

Mr. Smith. The second report is going to look at the ones that are not failing but—also not doing us any good?

Ms. Engeleiter. Right, or looking at those, that if the criteria had been different for who could get into the program in the first place, perhaps would never have been eligible and therefore would never have failed.

Mr. Smith. I see.

Ms. Engeleiter. This issue is taking a major amount of our time at the SBA right now, and I can assure you we are addressing each element very thoroughly.

Mr. Smith. Do you have another question?

Mr. Mollohan. No, thank you.

LEGISLATIVE PROPOSALS

Mr. Smith. Okay.

What are your legislative proposals; do you have any major legislative proposals, that will change your budget and what not?

Mr. Rosenbaum. No significant legislative proposals other than ones that support our proposal to eliminate direct loans and increase guarantee fees. These have to include proposed legislation, by virtue of the requirement that you all have imposed on us through previous statute.

Mr. Smith. You are authorized through 1991.

Mr. Rosenbaum. Yes, Mr. Chairman.

We are authorized in kind of a unique way, because of an agreement between the House and the Senate for 1991, we are authorized with "such sums as necessary."

Mr. Smith. Yes.

Mr. Rosenbaum. So you all have a full hand on it.

DISASTER LOAN PROGRAM DISBURSEMENTS

Mr. Smith. Yes.

And then the disaster loan program, some people do not understand this, but the outlays for—yours is a loan program, it is not, you do not rush in and hand out money.

They must show that they have the ability to repay. That means there must be a structure in place, that permits businesses to operate, etc.

So your outlays are later in the process than FEMA's. And the outlays for the earthquake in California and Hurricane Hugo; when will you finally complete the outlays that are involved, in those two disasters?

Mr. Rosenbaum. In terms of when will we disburse the loans?

Mr. Smith. Yes.

Ms. Engeleiter. We have closed the application process for all physical loans except in California, where we are still taking loan applications. We are in the process of disbursing those loans approved so far.

Mr. **Smith**. You are still taking applications for what?

Mr. **Rosenbaum**. We are still accepting applications in California from the earthquake.

Mr. **Smith**. Okay.

Mr. **Rosenbaum**. We are still working in California and have a good portion of them already approved.

The disbursement process, to a great extent, is contingent on whether the disaster victims can get the goods and services. In a lot of cases that means construction services. A lot of people are waiting in line for the contractor, because obviously everybody is tied up.

Mr. **Smith**. My question really relates to the disbursement of the money.

Mr. **Rosenbaum**. Normally full disbursement takes an average of probably six months after the loan is approved.

Ms. **Engeleiter**. Right now, Mr. Chairman, we have made initial disbursement on 55 percent of our approvals and we have approved 74 percent of our eligible applicants.

Mr. **Rosenbaum**. Mr. Chairman, the six month disbursement period is not the time that it takes us to get the check to the person. It is the time it takes the person to get a contractor, so that we can make the money available.

Mr. **Smith**. Right, I understand.

Mr. **Rosenbaum**. For those victims who do not have contractual problems but do have problems just getting appliances or chattel goods, we make the disbursements sooner.

Mr. **Smith**. But the disbursements cannot be made until they need the money?

Mr. **Rosenbaum**. That is right.

Mr. **Smith**. But will they all be made in the case of those two disasters, within the fiscal year 1990 or will some of them be made in 1991?

Mr. **Rosenbaum**. The disbursement may fall over into the following fiscal year, but the approval and the obligation will all occur in this year.

Mr. **Smith**. Yes, but I am talking about disbursements now.

Mr. **Rosenbaum**. Yes, they could fall over into FY 1991, depending on how long it takes a disaster victim and a contractor to get together and start rebuilding his house or address whatever repairs are needed.

Mr. **Smith**. Your estimate of $700 million, or $750 million includes the disbursements that will be made in 1991?

Mr. **Rosenbaum**. Yes, the estimate includes the total obligations that will occur this year, of which a good portion will be disbursed this fiscal year, and the remainder will be disbursed early in the next fiscal year.

Mr. **Smith**. Yes, okay.

I want to get into the record what you asked of OMB in each one of these instances, and what, when there was a reduction, you would have done with those funds.

Mr. **Rosenbaum**. We can provide that for the record, Mr. Chairman.

Mr. **Smith**. And if it is increased?

Mr. **Rosenbaum**. We can provide that Mr. Chairman, also.

[The information follows:]

REQUEST TO OMB

The SBA FY 1991 OMB request and reduced amounts are provided in the following chart.

	OMB request	Congressional request
FTE (Regular)	4,161	4,045
FTE (Inspector General)	162	157
Small Business Dev. Centers	$50,000,000	$30,000,000
Guaranteed Business Loans	4,079,000,000	3,830,000,000
Direct Business Loans	45,000,000	5,000,000
SBI Program	2,700,000	2,500,000
7(j) Program	10,000,000	8,700,000
Budget Authority:		
Salaries & Expenses	376,556,000	326,437,000
Inspector General	10,046,000	9,864,000
Disaster Assistance	26,000,000	19,357,000
Business Loans	83,000,000	3,000,000
Surety Bonds	10,500,000	9,500,000
Pollution Control	10,000,000	(1)

[1] Consolidated into Business Loans.

The only significant reduction to our proposal is the SBDC program. In this area, due to large direct funding involved, this program was reduced because: (1) increased private sector involvement indicates an ability to reduce Federal funding, and (2) this reduction will help provide deficit reduction alternatives to the Congress.

Mr. **Smith**. I guess that is all, thank you.

Mr. **Rosenbaum**. Thank you, Mr. Chairman.

Ms. **Engeleiter**. Thank you, Mr. Chairman.

[The following questions were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY CHAIRMAN SMITH
FOR HEARING RECORD ON
HOUSE APPROPRIATIONS HEARING
FY 1991 BUDGET REQUEST

Impact of Sequestration

Question: How much of a reduction was made in each of your appropriations for FY 1990, and what was the impact of those reductions on your activities?

Answer: The total amount sequestered for FY 1990 is detailed in the chart below.

($ in thousands)

	FY 1990 Approp.	Sequester Amount	FY 1990 Avail.
Salaries & Expenses	$349,160	$4,621	$344,539
Inspector General	7,400	-	7,400
Business Loans-Direct	82,000	-	82,000
Business Loans-Gty.	3,977,000	48,025	3,928,975
Disaster Loans	1,813,250	-	1,813,250
Surety Bonds	1,250,000	-	1,250,000

Because of the method used in computing the estimates for the FY 1990 budget, the impact of the Gramm-Rudman-Hollings sequestration on the Agency's programs was very minimal. The reduction was equally prorated throughout all the programs and activities, therefore, there was virtually no effect on our programs and delivery of services.

Request to OMB

Question: What was your budget request to OMB in funds and positions for each of your programs?

Answer: The FY 1991 request to OMB, including the Office of Inspector General, included $490 million for budget authority to fund the Agency's programs and administrative expenses and $6.0 billion for credit programs. These amounts are detailed by program below.

	Amount ($ in thousands)	FTE Positions
Budget Authority:		
Salaries and Expenses	$376,556	4,161
Inspector General	10,046	162
Business Loans	83,000	
Surety Bonds	10,500	
Pollution	10,000	
Program Levels:		
Business Direct Loans	45,000	
Business Gty. Loans	4,097,000	
Disaster Loans	285,000	
Surety Bond Guarantees	1,500,000	

Disaster Loan Program

Question: How many disaster loans were made in connection with Hurricane HUGO and the San Francisco earthquake?

Answer: As of March 25, 1990, we had received 68,249 loan applications, and have processed 85.1% of them. Thus far, we have approved 33,712 loans for a total of $695 million. There have been disbursements on 20,125 of the approved loans in the amount of $188.7 million. We anticipate that the total approvals for these two disasters will be $750-800 million.

Question: How many of those loans were made to persons or businesses that would have been unable to obtain loans without SBA assistance?

Answer: So far, approximately 91.6% of the loans were made at the 4% interest rate, which indicates a determination by SBA that the applicant did not have credit elsewhere available.

Question: How many of the persons and businesses that received loans would have been able to qualify for those loans if the interest rate had been at the Treasury's cost of borrowing?

Answer: We are unable to answer this question with the information in our available records. In order to respond to this, all the loan case files for all loans where the payment term is 30 years or close to 30 years would have to be reviewed.

Question: Has SBA looked into the complaints reported in the media concerning the amount of information SBA requires disaster victims to provide when applying for a disaster loan?

Answer: Yes, we have reviewed our requirements and do not believe they are, generally, any more difficult than would be required by any reasonably prudent lender who did not know the applicant. Of course, there are certain additional matters that SBA, as a government Agency, is required to request. These matters are in accordance with laws that we are responsible for administering, which non-government lenders do not have to administer.

Question: Is SBA able to offer help to applicants who do not understand the applications or who have lost some of the documents needed to provide requested information?

Answer: Yes, SBA is able to offer assistance. In every disaster situation, SBA conducts regularly scheduled workshops for home loan applicants. The workshops are well publicized and SBA encourages all home loan applicants to attend a workshop where they can receive individual assistance from SBA staff or a local volunteer in completing their application. In addition, in every physical disaster, SBA conducts workshops and meetings for business owners at which the applications and the process are discussed and individual questions are answered. Also, SBA maintains "800" telephone lines to its disaster offices which can be used to ask any questions an applicant may have.

Legislative Proposals

Question:	You are proposing legislation which would increase the guaranty fee on Section 7(a) business loans from two to five percent. Last year you testified that raising the guaranty fee from two to five percent would be detrimental to the business loan program and that hopefully the proposal could be reworked. Why then are you again proposing to increase the guaranty fee from two to five percent?
Answer:	The proposal to increase the guaranty fee on the guaranteed loan program is a part of a long-range government-wide program to transfer the cost of Federal programs from the general taxpayer to the direct recipient of the program and make the program self-sufficient. The increase from two to five percent will help offset the cost of providing financial assistance. The approval of this proposal would generate additional revenues for the Business Loan and Investment Fund and would eliminate the need for additional appropriated funds, above the current FY 1991 request, in that account. The three percent fee increase in the 7(a) program would only raise the monthly payments on the average loan by a nominal $75. From SBA's prospective, this proposal is not detrimental.
Question:	What changes, if any, do you anticipate will occur in the demand for 7(a) loans if the fee is increased to five percent?
Answer:	As has been indicated in the above response, we do not expect the three percent fee increase on the Section 7(a) business loans to have any adverse effect on the program. However, at this point we cannot project exactly what effect the increase will have on the demand for 7(a) loans.
Question:	You are also proposing to consolidate the Pollution Control Fund into the Business Loan and Investment Fund. What is the rationale for this proposal?
Answer:	The purpose of the Pollution Control Fund is very similar to that of the Lease Guarantee Fund, which was recently consolidated into the Business Fund due to the nature of the fund's remaining activity. This was a result of the non-issuance of any lease guarantees. Since 1976, and the fact that the fund existed only to pay claims on these "old leases". In like manner, Congress eliminated the authority for pollution bonds and the revolving fund remains just to cover claims resulting from prior year bonds. The Pollution Program has

already been consolidated under the 7(a) account in the Business Loan and Investment Fund (BLIF) to cover any "pollution-type" financing requirements. The proposed consolidation of the Pollution Fund into the BLIF account will be consistent with past Congressional practice relative to "cancelled" programs, and will eliminate the need for an annual Pollution Fund appropriation since the requirements can be funded from the BLIF account. Also, it would simplify the accounting and reporting requirements for a program with minimal activity.

Question: You are also proposing to restrict disaster loans to borrowers who "cannot obtain credit elsewhere." How many disaster loans that were made to the victims of Hurricane HUGO and the San Francisco earthquake would not have been made if you had the authority to restrict disaster loans to borrowers who could not obtain credit elsewhere?

Answer: Based on the interest rate of our disaster program, we have made 8.4 percent of our loans at the "credit elsewhere" rate. These borrowers would be ineligible under our proposed FY 1991 disaster program.

Question: How many of the persons in businesses that received loans after Hurricane HUGO and the San Francisco earthquake would have been able to qualify for those loans if the interest rate had been at the Treasury's cost of borrowing?

Answer: To accurately answer this question would require a detailed review of each loan applicant's case folder. We would modify the terms of our loan agreements to minimize the payment burden on the victim. Any victim who could not qualify because of inability to repay would then be referred to FEMA for assistance under their grant program.

Mandatory Cost Increases

Question: You are proposing a net increase of $1,972,000 in the Salaries and Expenses account for adjustments to base and built-in changes. Will this amount cover all of your mandatory cost increases, and if not, how much will you be short, and how will you finance these requirements?

Answer Funding of the net increase of $1,972,000 for the Salaries and Expenses fund will cover all known mandatory cost requirements with the exception of 50% of the January 1991 pay raise, which we will have to absorb. That is consistent with the Administration's policy on the funding of the FY 1991 pay raise proposal.

Increase for Agency Move

Question: You are requesting an increase of $4,189,000 for the Agency's move into a new headquarters building. What is the status of that project, and what will be the cost per square foot to the agency in the new headquarters building?

Answer: The project to move the central SBA offices into a new headquarters building is on target. Once completed, the new building will be eight stories tall. Concrete is currently being poured for the 7th floor. Occupation of the new building is scheduled to begin during October 1990, and be phased in through early March 1991. The cost per square foot in the new building will be approximately $30.

Increase for New Computer

Question: You are requesting an increase of $3.5 million for the purchase of computer services either through a commercial contract or a cross-servicing agreement. The budget justifications indicate that competitive bids have been received and that the Agency is in the process of awarding a contract. What was the amount of the final contract for computer services?

Answer: A contract was awarded to the EDS Corporation on March 9, 1990 for $5,455,316. The contract was awarded for one year with options for six additional years. EDS has provided a fixed price cost for each option year which varies only when SBA requires supplemental access to an IBM facility. With access to an IBM facility, the average fixed price cost per year for full scale operations is $6,375,897. Without access to an IBM facility the average fixed price cost per year is $5,022,897.

Question: A similar request for computer services to replace the computer was contained in last year's budget. What was the reason for the delay in awarding this contract?

Answer: Since 1985, the SBA has requested funding to replace its 1980 vintage UNISYS 1100/84 mainframe computer. In 1988, we decided that funding in the amount necessary to replace the computer would not be forthcoming. Alternative solutions were considered, including a cross-servicing agreement with the U.S. Department of Agriculture's Fort Collins Computer Center. It was then determined that it would be more prudent to first obtain formal cost pricing from the private sector for the required services. A request for proposal was prepared and a full competitive procurement for ADP services under the GSA mandatory Teleprocessing Services Program was conducted. Copies of the RFP were sent to various Federal agencies, including USDA, which are listed by GSA as offering ADP sharing arrangements. There were no responses from Federal agencies. There were three responses from private firms. Technical and cost evaluations were completed, a demonstration benchmark was conducted with the apparent winner, and a contract was awarded to EDS Corporation.

Increase for Procurement Assistance

Question: You are requesting 30 additional positions for the Breakout Procurement Program. What is the estimated savings in procurement costs by establishing breakout centers at the FAA, NASA and two Air Force facilities?

Answer: It is estimated that four additional breakout teams would generate between $12.0 and $40.0 million in savings once they become established. Savings are only realized after the broken-out items are purchased, which in some cases takes several years.

Increase for PASS Program

Question: You are requesting a small increase of $264,000 for the PASS Program. You are also proposing an increase in the application and user charges connected with the PASS System. How many requests for PASS data were received last year?

Answer: During FY 1989, direct access users signed onto PASS 16,905 times. Each of these sign-ons is considered a session during which PASS data is requested. These sessions totaled 6,505 hours of search time. We do not have the ability to count the number of requests made during a session.

Question: How many small business firms are there in the PASS data base?

Answer: As of March 27, 1990, there were 170,991 firms registered with PASS.

Question: What are the amounts of the proposed increases in the PASS application and user fees?

Answer: It has been proposed that a new user fee of $10 be established for registration and each annual update. Additionally, it has been recommended that the usage fee for direct access to PASS be increased from $24 per hour to $50 per hour with a minimum billing unit of one hour per month.

Question: What assurance does the Agency have that the increase in application and user fees will be cost effective and not result in an overall reduction in the use of the PASS system?

Answer: The SBA believes that the quality of data in the system, the number of firms registered, and the expansion of the PASS system into a national small business directory are all incentives that will encourage increased usage of the PASS system even with the application fee and the increase in user fees.

Question: Has the Agency decided to expand PASS into a national small business directory, and if so, is this expansion the first step of that process?

Answer: Yes, this is the first step of expanding PASS into a national small business directory. We are proceeding with this expansion which is a program objective that was approved by the SBA Administrator.

Increase for Miscellaneous Studies

Question: You are requesting a million dollar increase for something called Miscellaneous Studies. Please explain to the Committee what these funds would be used for.

Answer: The FY 1991 budget request includes a million dollar increase for Miscellaneous Studies. The funding of this request would provide resources that would allow the SBA Administrator to perform mandated and miscellaneous studies which are required by Congressional authorization legislation and/or internal actions but for which no funding was specifically provided.

Increase for Women's Outreach

Question: You are proposing an increase of $3,033,000 for the Women's Outreach Program. What is the current level of funding for this program, what has been accomplished to date, and what would you hope to accomplish with this increase?

Answer: The Women's Business Ownership Act of 1988 authorized a demonstration program to develop long-term training and counseling centers for women across the country. The program was authorized for three years, at $10 million for FY 1989, FY 1990 and FY 1991. The actual appropriated funding levels for each year to date have been $2 million for FY 1989 and $2 million for FY 1990. The SBA Administrator has requested funding of this program for FY 1991, at $5 million. This amount represents the $3 million increase in our request over FY 1990 funding.

The FY 1989 funds were awarded to four different companies, and have served to establish nine centers. They are currently training women to develop business plans and credit proposals to be able to manage their business efficiently, and to increase their business in the most successful way possible. Each center has undertaken substantial outreach efforts to ensure that they provide training to socially and economically disadvantaged women.

Proposals for FY 1990 awards are currently being reviewed and we anticipate making these awards in April 1990. They will establish centers in additional locations across the country, as well as provide some additional funding to the first projects that are still solidifying their local funding bases.

The $3 million increase will allow this program to expand to areas of the country that have not had the opportunity to have a center. In addition, it will allow Congress to see more models and their relative levels of success, and therefore, make a more informed decision about continuing the program when it comes up for reauthorization in FY 1992. To date we have seen very good results from our awards under the program. These centers are contributing to the economic health of their area, one enterprise at a time.

Increase for Minority Business Commission

Question: You are requesting an increase of $372,000 for the Minority Business Commission. What is the status of this Commission, what has it accomplished to date, and when will it complete its work?

Answer: The first six months of operation for the Commission on Minority Business Development have been progressive for all four major operation areas — Administrative Affairs, Public Affairs, Intergovernmental Affairs and Procurement Resource Team Review and Assessment.

Within the Administrative Affairs operation, the major positions have been filled. These include the appointments of the Executive Director, Administrative/Legislative Affairs Director, Public Affairs Director and Administrative Assistant; detail appointments of Deputy Director, and Procurement Special Assistant and; hiring of interns and consultants. The Commission Office has been furnished with furniture, and major equipment including telephones, computers, copying machines and a postage metering machine. The payroll, purchasing and accounting systems and procedures have been activated through GSA, the mail management system has been set up and staff training has been initiated.

The Public Affairs unit has established contacts with, major and minority print and television journalists across the country and, minority chambers of commerce, business organizations, state and local minority program directors, civic leaders and small business representatives. They have also developed press kits and the newsletter format. The national awarnesss of the Commission's mandate has been heightened through, the Commission Chairman's appearances on national television, and coverage in newspapers and magazines. Additionally, Commission representatives have participated in 22 preliminary fact-finding and outreach meetings.

Activities within the Intergovernmental Affairs include, sending Commission announcement letters to the Cabinet and to key legislators, monitoring legislative hearings and Supreme Court cases and establishing communications and securing support of many of the nation's governors. The Executive Director has met with the House and Senate Small Business Committee staff, and some agency Secretaries, including those at the Departments of Transportation and Defense. On March 22, 1990, the White House announced the remaining Commissioner appointments and they were sworn in.

The Procurement Resource Team Review and Assessment operation has developed questionnaire and other survey instruments. Plans are being made to, conduct a comprehensive inventory of federal, state, local and private sector programs, study the federal marketplace, and study minority business financing. Additionally, Commission staff have made site visits to the Tennessee Valley Authority and the Department of Energy Oak Ridge facilities.

Legislation mandates that the Commission will issue an interim report by December 31, 1990 and a final report by December 31, 1991.

Question: What additional activities would the Commission undertake with the additional funds requested?

Answer: The additional funds requested for FY 1991 would be used to cover additional requirements such as the cost of contracts for three major studies, additional travel, meeting/hearing support such as meeting facilities and official stenographers, increased communication and printing needs, and other unknown contingencies that the Commission will have to fund in order to meet its mandate.

Reduction for Disaster Loan Making Activities

Question: The budget request reflects a reduction of $10,246,000 for disaster loan making activities. What is the current amount anticipated for disaster loan making activities for FY 1990?

Answer: Assuming normal disaster loan making and loan servicing activities, a level of $19.4 million should be sufficient for FY 1991. The budget reflects a FY 1990 level of $29.6 million as a result of Hurricane Hugo and the San Francisco earthquake disasters, however, we were appropriated "such sums as may be necessary". Because of the volume of activity it was necessary to apportion additional funds. The current estimated level of activity for FY 1990 is $62 million. All but $6 million is available for disaster loan making activities.

Question: How much of the funds used in this activity for FY 1990 were a result of the Hurricane HUGO and San Francisco earthquake disasters?

Answer: During a normal year of disasters, approximately $19,000,000 is expended for the disaster assistance loan activities. Therefore, we would estimate that the difference between the current estimate of $62,000,000 and the historical average rate of $19,000,000 is primarily the result of the Hurricane HUGO and the San Francisco earthquake.

Surety Bond Guaranty Program

Question: What is the status of the Preferred Surety Bond Guaranty Program?

Answer: Final regulations for the Preferred Surety Bond Guaranty (PSB) Program were published in the Federal Register on March 20, 1990. Participation in this program is expected to begin within the next month.

Question: How many surety companies will participate in the Preferred Program in FY 1990, and what will be the number and dollar value of surety bonds guaranteed under this program in FY 1990?

Answer: Three major surety companies have contacted SBA regarding participation in the PSB program. It is anticipated that they will sign a formal agreement within the next month. SBA program managers intend to allocate approximately $100 million for PSB participants in FY 1990, should the demand require this level of funding.

Question: What effect, if any, have the other changes to SBA's Surety Bond Guaranty Program had on the demand for SBA bond guarantees?

Answer: In May 1989, the SBA Reauthorization and Amendment Act of 1988, PL 100-590, was implemented, thereby increasing the guarantee percentage for minority and small (under $100,000) contracts from 80% to 90%. The average guarantee percentage has increased from 80% to approximately 84% as of March 28, 1990. The Agency will review the effects of these changes on total guarantee authority usage at the end of FY 1990.

Small Business Investment Companies

Question: How much has the Agency lost as the result of SBIC failures in the last five years?

Answer: Over the past five years (FY 1985-FY 1989), SBA's net losses for SBIC loan debentures totaled $10,502,430. Our latest loss study as of 9/30/89 showed, out of $1.2 billion outstanding, $431 million is anticipated to go into default or liquidation which will result in additional estimated losses of $167 million.

Question: Your Budget justifications indicate that legal issues involving SBIC failures are very complicated. How much in funds and staff has the Agency been devoting to SBIC cases?

Answer: As you have indicated, legal issues involving SBIC failures are very complicated. This is due in part that some SBIC's have as many as 30 individual debentures attached to them. There are currently four staff years being devoted to the liquidation activities and our FY 1991 budget submission includes a request for seven additional positions for this activity. The program office is currently in the process of briefing the SBA Administrator on the SBIC workload, staffing and funding situation in preparation for upcoming Congressional hearings on SBIC. Additional information on SBIC funding and staffing will be available after the hearing.

Question: What are the principal reasons for the failures?

Answer: A combination of factors contributed to the SBIC failures. The macro factors included the "bursting" of the high technology investing bubble of the late 1970's and early 1980's, with resulting portfolio losses of investors including SBIC's who got in late on overpriced deals. Another macro factor was the 1986 repeal of the income tax exclusion on capital gains, which sharply reduced the gains possible on equity and equity-type investments. The 1987 stock market collapse depressed prices and seriously limited the opportunity to take young companies "public" at appreciated stock prices, which made it more difficult for SBIC's and other venture investors to exit profitably from these deals. All this depressed profits for SBIC's, who had borrowed from SBA at very high interest rates, causing many of the defaults. At the same time, SBA had tightened its credit evaluation and SBIC financial reporting requirements to eliminate opportunities for abuse and omissions, meaning we would not refinance SBIC's in an unstable financial condition.

Increase for Office of Inspector General

Question: You are requesting an increase of $2,464,000 for the Office of Inspector General. How much of this increase is for mandatory cost increases, and how much is for program increases?

Answer: Briefly, the FY 1991 budget request specifies that $1,764,000 of the increase is for adjustments to base and an increase of 28.0 FTE. The remaining $700,000 of the increase is for programmatic changes in the relocation, travel, and other contracts categories.

Question: What programs will the Inspector General review this year in fiscal 1990, and what areas do you plan to review during FY 1991?

Answer: In FY 1990, the Office of Inspector General has planned to review the following Agency programs, activities, and participants as part of our audit programs:

* Small Business Investment Companies (approximately 200)
* Preferred Lenders Program (6 preferred lenders & 4 district offices)
* Acquired Collateral Acquisition and Disposition (involving 5 regions)
* Small Business Development Centers (3)
* 8(a) Firms (approximately 5-10)
* SBA Contractors (approximately 10)
* Disaster Office Operations
* Surety Bond Guarantee Claims
* Contract Close-Out Process
* Compliance with Federal Managers Financial Integrity Act (FMFIA)
* Consulting Services
* Year-end Spending
* Certified Lending Company (1)
* Small Business Lending Company (1)
* SBA's Use of Treasury Trust Fund and Private Bank Accounts
* White House Conference on Small Business

In FY 1991, with the additional staff and resources provided at the requested level, we will be able to increase both our internal and external audit coverage. In addition to continuing our mandated audits of SBICs and other program areas such as preferred surety companies, FMFIA activities, consulting services, lobbying, and year-end spending, we anticipate initiating audit work in the following areas:

* SBA Accounting Operations

* Disaster Loan Servicing

* ADP Operations and Systems

* 8(a) Monitoring of 8(a) Firms

* SBICs in Liquidation

* 8(a) Companies (increased coverage)

* 7(a) Lenders

* 7(a) Loan Liquidation

* Small Business Lending Companies (increased coverage)

* Certified Development Companies (increased coverage)

Question: What areas and activities of the Agency will you not be able to review at this level of funding?

Answer: If we are funded at the FY 1991 requested level of $9,864,000, we will be able to significantly increase our reviews of Agency programs and activities in both the audit and investigative areas. While this will be a substantial improvement over our capabilities at the FY 1990 funding level, there will still be some areas which we will not be able to review even with the resources provided in the FY 1991 request.

On the audit side, notwithstanding the increased audit coverage which will be attained with the additional staff requested for FY 1991, audit coverage of Agency programs will be at a minimal level in a number of areas:

- The increased staff level will allow us to perform 5-7 additional internal audits as well as 4 audits of SBA automated data processing activities. Completion of these additional audits would reduce our internal audit cycle for high priority program areas from a 10-year cycle to about an 8-year cycle, compared to our goal of a 3-year cycle given the nature of SBA's programs and portfolio. Any additional staff and resources beyond the FY 1991 requested level would be used to work toward attaining this goal.

- We will be able to perform an additional 25-30 external audits of participants in SBA's programs at the FY 1991 requested level.

On the investigations side, there are three areas where resources are utilized: (1) complaints which are currently referred to others or archived for informational purposes; (2) proactive, or preventive, reviews of Agency programs; and (3) integrity awareness presentations to Agency employees.

- At the FY 1991 funding level, we would be able to handle approximately 240 complaints. We would be able to increase the resources devoted to covering the Agency's business loan, SBIC, and certification and contracting programs.

- In the area of proactive reviews, we will be able to undertake a preventive approach to detecting and resolving integrity problems on priority areas. These activities are part of our long-term plans and are an important component of an investigation program. Briefly, proactive reviews would involve selecting specific Agency programs or aspects of those programs for analysis, based on data in our investigations management information system on complaints involving those programs for analysis.

- With respect to integrity awareness presentations, ideally we would brief all Agency employees on an annual basis, as these presentations are important in encouraging employees to report suspected wrongdoing and in deterring future misconduct. At our FY 1990 funding level we are able to brief approximately one-fifth of the Agency's employees each year, while at the FY 1991 level we would be able to reach a much greater level of the workforce each year.

Question Submitted by Congressman Carr

Question: The Small Business Development Center program has become the SBA's principle management assistance program for small business owners and operators. I have three outstanding centers located within my own Congressional District at Lansing Community College, the Pontiac Growth Corporation and the Center for Handicapped Small Business Association. Within a month a new center dedicated to assisting small businesses become successful in exporting their products will be established at Michigan State University.

How does the SBA view these SBDC's? Why is the SBA supporting a $30 million appropriation for FY '91 when it will require approximately $50-55 million to continue the same level of support as in the current year? Is it true that you are supporting the phase out of the program altogether in FY '92? If so, what is the justification for this cut?

Answer: The SBDC program has been and continues to be a very successful program. Over the past ten years it has grown at a phenomenal pace. The recent GAO study on the SBDC program was extremely positive. We are pleased that quality service and client perception of service is very high for this program. However, we are concerned that SBDC's need to have more of a presence in the minority business community and we have established two pilot projects that will have SBDC's performing specific counseling functions for minority-owned small businesses.

We anticipate that all 50 states will be participating in this program by the end of FY 1990. The program has received tremendous support at the State and local levels. Almost all of the SBDC's receive sizable contributions from State governments, the academic community, trade associations and other private sector segments. Because of this tremendous private-sector participation and in light of the growing deficit problem, this program was targeted as a program whereby substantial Federal dollars could be saved by relying more on the private-sector for support and continued funding and growth. Through continued and increased private-sector funding, we feel that the SBDC program could be run absent Federal funding by 1993.

QUESTIONS FOR THE RECORD
SUBMITTED BY REP. ALAN B. MOLLOHAN
SMALL BUSINESS ADMINISTRATION
APPROPRIATIONS HEARINGS

Question:	In your statement you talked about the Business Opportunity Development Reform Act, which includes the Small Business Competitiveness Demonstration Program. How is this project going? The SBA has required that the participating agencies in the Demonstration Program select ten industries with significant purchasing volumes and a history of low small business participation and then develop a 4 year plan to increase acquisitions from small businesses in those areas. Are those agencies meeting those goals?
Answer:	Title VII of P.L. 100-656 required the participating agencies to develop a plan for greater small business participation in ten targeted industry categories (TICs). SBA worked closely with each agency in selecting their targeted industry categories and developing plans for increased small business participation. Annual goals were negotiated in each industry for the four-year period. While the first year of the program is now completed, most of the agencies' plans were not put into effect until the third quarter of FY 1989; therefore, the data submitted to SBA to date is insufficient to determine whether or not the agencies met their annual goals. Several of the agencies reported at the start of the program that their reporting systems would not be operational the first year of the program. The Office of Federal Procurement Policy is working with the agencies in an effort to correct data collection problems. We do not anticipate being able to determine the actual impact of this program until FY 1992.

Question: Could you please answer for the record the exact method the SBA will use to monitor the 8(a) contracts to ensure that the 8(a) program is not used (at a great expense to the Federal government) as a "go through" for large companies who would have to bid competitively for the same contracts?

Answer: All 8(a) contracts must by statute and regulation be awarded to 8(a) firms that are small as defined by the size standard associated with the instant procurement. There is no prohibition to subcontracting with other than small companies provided such subcontract agreement does not create an affiliation between the 8(a) and other than small company. Further, prior to contract execution, SBA and the procuring agency must approve of the subcontract arrangement.

In the case of non-manufacturers unless the class of item(s) being procured have received a waiver, the end item provided under contract must be manufactured by a small business. The managers of the 8(a) program have exercised great care in awarding 8(a) contracts consistent with all applicable regulations regarding size.

Question: In your statement you propose an increase in user fees for the services of the Procurement Automation Source System (PASS). As far as I can tell, and from input from a number of sources, PASS is a very worthwhile system which provides invaluable services. I think we should be making it more accessible to the public and to Federal agencies. By how much do you intend to increase the user fees, which are already high at approximately $25 an hour, and how do you intend to make the system more accessible? It seems to me that increasing the user fees would be detrimental to the small businesses whose descriptions are included in the PASS database because searching for them would be expensive.

Answer: It has been proposed that a new user fee of $10 be established for registration and each annual update. Additionally, it has been recommended that the usage fee for direct access to PASS be increased from $24 per hour to $50 per hour with a minimum billing unit of one hour per month. The SBA believes that the quality of data in the system, the number of firms registered, and the expansion of the PASS system into a national small business directory are all incentives that will encourage increased usage of the PASS system even with the application fee and the increase user fees. The additional monies requested for the PASS system will be used to enhance the system, and to make it more informative and accessible.

Question: On page 27 of our statement you assert that rural America has not shared in the prosperity of our Nation's economic expansion. You go on to say that under your new rural initiative the SBA will identify under-served areas and take steps to target the programs more successfully to those areas. How do you propose to target areas and how will this program benefit states like West Virginia, which is in need of assistance?

Answer: A rural development initiative was announced on January 23, 1990 to target SBA programs for rural areas. The 13-point plan will provide better focus and stronger emphasis to SBA's programs in rural America.

Additionally, there are several steps we plan to take to increase rural development outreach.

We will encourage the establishment of small business incubators in rural counties and provide assistance as feasible. The incubators will provide space for a number of businesses to locate and operate at low overhead costs where they can receive in-depth counseling and other one-on-one business assistance.

A series of small business management training videotapes will be developed so that small business owners/managers who are located in rural areas, have access to videos on specific topics of interest to them.

We will extend outreach to rural areas outside SBA's current network of resources by creating Small Business Mobile Assistance Centers specially equipped to deliver SBA program information and materials.

Small Business Institute (SBI) teams will design economic development strategies for rural small business formation and growth in selected rural communities.

To overcome the geographic isolation of existing and potential small business owners, a database of small business information that can be accessed by personal computer will be developed.

Memoranda of Understanding between USDA's Farmers Home Administration and the Extension Service will be revised to reflect SBA's more active role in promoting small business interests in rural development.

Question: West Virginia appears to be receiving a disproportionately low number of awards under your SBIR programs. I would like you to submit, for the record, a breakdown by State of how many awards, the total value of those awards, what criteria are used in selecting companies, and what the SBA has done to make eligible companies aware of the SBIR programs.

Answer: SBIR is a 3-phase program which provides opportunities for small business concerns to compete for research and research and development (R/R&D) funding agreements that are awarded by the eleven Federal participating agencies.

The purpose of the first two phases is to assist the agencies in meeting the R/R&D needs that are published in each of their SBIR solicitations.

SBIR Phase I offerors must first qualify on the basis of their small business status which means they will be:

- independently owned and operated - not dominant in the field of operation in which they are proposing, with a principal place of business located in the United States and organized for profit.
- at least 51 percent owned or in the case of publicly owned business, at least 51 percent of its voting stock is owned by U.S. citizens or lawfully admitted permanent aliens, and
- including affiliates have a number of employees not exceeding 500.

The SBIR Policy Directive requires that all Phase I and II proposals will be evaluated and judged on a competitive basis and they will be initially screened to determine responsiveness. Those proposals passing this initial screening will be technically evaluated by engineers or scientists to determine the most promising technical and scientific approaches.

The Directive specifically states that in their evaluation process, each of the Federal agencies participating in the SBIR Program, shall develop a standardized method that will consider the following:

a. The technical approach and anticipated benefits that may be derived from the research.

b. The adequacy of the proposed effort and its relationship to the fulfillment of requirements of the research topic.

c. The soundness and technical merit of the proposed approach and its incremental progress toward topic solution.

d. Qualifications of the proposed principal/key investigators supporting staff and consultants.

e. In Phase II evaluations of proposals of approximately equal technical and scientific merit, the Agency should give special consideration to proposals which demonstrate Phase III non-Federal capital commitments.

Phase II proposals may only be submitted by Phase I award winners within the same participating Federal agency.

The object of Phase II is to continue the effort from Phase I and its funding is based on the results of Phase I and scientific and technical merit of the Phase II proposal.

SBA publishes annually the names of those small business concerns that successfully competed for SBIR awards during the fiscal year along with a description of their R&D effort. *A copy of the latest Listing of SBIR Awardees for FY 1988 is enclosed.

From the inception of the program, SBA provided information on SBIR through conferences, seminars, audio/video displays, publications, and the media.

In December, March, June, and September of each year, SBA publishes the SBIR Pre-Solicitation Announcement (PSA). The PSA contains pertinent information on all of the SBIR solicitations that are presently open or will be released within the next 90 day period. Copies of this publication are sent to the more than 75,000 entities on the SBA SBIR Mailing List. In addition, copies are provided to SBA field offices, state and local governments and the public in general.

Two hundred and fifty-two individuals from the State of West Virginia have requested to be on this mailing list and copies of the PSA are sent to them each quarter.

The SBA office in West Virginia has worked since the beginning of the SBIR Program to inform as many small concerns as possible. Their efforts included having the Assistant Administrator from the SBA Office of Innovation, Research and Technology and staff travel to the state to meet and discuss the merits of the program with local officials.

*(Clerk's Note: The SBA publication entitled Listing of SBIR Awardees for FY 1988 is on file with the Committee.)

SBIR Awards

Fiscal Year	Phase I	Phase II	Totals
83	686		686
84	999	338	1,337
85	1,397	407	1,804
86	1,945	564	2,509
87	2,189	768	2,957
88	2,013	711	2,724
Total	9,229	2,788	12,017

Value of SBIR Awards

(in millions of dollars)

Fiscal Year	Phase I	Phase II	Total
83	$44.5	$- -	$44.5
84	48.0	60.4	108.4
85	69.1	130.0	199.1
86	98.5	199.4	297.9
87	109.6	240.9	350.5
88	101.9	284.9	389.1*
Total:	$471.6	$915.6	$1,389.5**
EST: Fiscal 89			$400.0

*includes awards modifications

**includes all previous modifications

FISCAL YEAR 1988 SBIR PHASE I AND PHASE II AWARDS

STATE	NUMBER OF AWARDS	DOLLAR AMOUNT
ALABAMA	38	$ 6,766,503
ALASKA	2	141,200
ARIZONA	34	4,777,802
ARKANSAS	3	552,467
CALIFORNIA	670	98,082,559
COLORADO	85	12,130,023
CONNECTICUT	63	10,087,515
DISTRICT OF COLUMBIA	10	472,377
DELAWARE	6	720,873
FLORIDA	67	10,929,621
GEORGIA	17	2,859,027
HAWAII	7	1,740,998
IDAHO	4	307,000
ILLINOIS	47	6,624,213
INDIANA	17	1,950,240
IOWA	6	691,263
KANSAS	2	259,990
KENTUCKY	5	1,081,596
LOUISIANA	11	1,136,383
MAINE	7	925,571
MARYLAND	153	27,231,864
MASSACHUSETTS	419	63,317,219
MICHIGAN	34	5,575,351
MINNESOTA	40	4,362,688
MISSISSIPPI	3	325,000
MISSOURI	10	1,272,026

FISCAL YEAR 1988 SBIR PHASE I AND PHASE II AWARDS

STATE	NUMBER OF AWARDS	DOLLAR AMOUNT
MONTANA	5	210,000
NEBRASKA	3	706,000
NEVADA	5	1,103,949
NEW HAMPSHIRE	28	4,535,414
NEW JERSEY	82	12,645,319
NEW MEXICO	53	9,033,497
NEW YORK	134	16,406,393
NORTH CAROLINA	22	3,086,712
NORTH DAKOTA	2	260,000
OHIO	72	6,970,378
OKLAHOMA	10	1,361,207
OREGON	28	4,558,962
PENNSYLVANIA	102	17,171,938
RHODE ISLAND	8	582,770
SOUTH CAROLINA	4	193,893
SOUTH DAKOTA	2	245,000
TENNESSEE	40	5,786,015
TEXAS	76	8,565,142
UTAH	51	7,423,565
VERMONT	3	655,499
VIRGINIA	150	20,092,990
WASHINGTON	67	10,644,137
WEST VIRGINIA	2	100,000
WISCONSIN	14	690,653
WYOMING	--	--
PUERTO RICO	1	50,000

FY 1987 PHASE I AND PHASE II SBIR AWARDS - BY STATE

STATE	NO. OF AWARDS	DOLLAR AMOUNT
AL	56	4,452,500
AR	1	50,000
AZ	26	1,974,718
CA	759	75,657,969
CO	85	7,545,749
CT	70	7,169,735
DC	7	477,166
DE	7	778,857
FL	71	5,444,907
GA	22	1,816,863
HI	3	324,250
IA	5	217,125
ID	2	46,806
IL	49	5,140.092
IN	13	822,290
KS	3	294,692

FY 1987 PHASE I AND PHASE II SBIR AWARDS - BY STATE

STATE	NO. OF AWARDS	DOLLAR AMOUNT
KY	2	79,830
LA	11	792,117
MA	422	41,326,683
MD	170	16,494,294
ME	12	760,884
MI	50	4,617,682
MN	34	3,030,229
MO	10	839,936
MS	2	250,605
MT	6	400,975
NC	31	3,294,750
ND	1	49,165
NE	3	149,812
NH	28	2,982,871
NJ	68	5,487,344
NM	73	6,234,739
NV	8	1,026,762
NY	122	11,654,604
OH	81	7,108,588
OK	15	965,582

FY 1987 PHASE I AND PHASE II SBIR AWARDS - BY STATE

STATE	NO. OF AWARDS	DOLLAR AMOUNT
OR	34	2,518,065
PA	131	12,311,103
PR	2	96,996
RI	4	708,631
SC	3	610,360
SD	1	49,192
TN	45	4,770,599
TX	82	8,250,753
UT	58	4,115,412
VA	167	15,082,591
VT	4	520,947
WA	85	7,888,202
WI	11	989,789
WV	1	52,128
WY	1	49,800

Value figures taken from Printout and map in SBIR 5th Annual Report.

FY 1986 PHASE I AND PHASE II SBIR AWARDEES BY STATE

State	Number of Awardees	Dollar Amount*
Alabama	44	$ 3,933,843
Arkansas	2	192,750
Arizona	32	2,972,168
California	600	59,668,494
Colorado	80	9,602,222
Connecticut	74	7,007,197
District of Columbia	12	930,536
Delaware	6	544,505
Florida	53	6,374,940
Georgia	10	822,712
Hawaii	4	227,776
Iowa	2	97,893
Idaho	3	398,878
Illinois	48	3,486,351
Indiana	14	2,243,748
Kansas	3	259,970
Kentucky	2	97,185
Louisiana	4	368,802
Massachusetts	360	34,173,995
Maryland	139	10,526,415
Maine	8	719,297
Michigan	41	3,819,035
Minnesota	32	3,007,568
Missouri	12	946,438
Mississippi	5	211,169
Montana	7	445,176
North Carolina	29	2,250,534
Nebraska	1	47,874
New Hampshire	26	3,450,843
New Jersey	66	4,857,124
New Mexico	54	6,351,745
Nevada	4	349,298
New York	113	10,154,841
Ohio	83	7,375,204
Oklahoma	9	628,246
Oregon	20	2,791,676
Pennsylvania	115	10,612,647
Rhode Island	6	497,592
South Carolina	2	80,405
South Dakota	1	50,000
Tennessee	33	2,620,501
Texas	75	8,734,101
Utah	43	4,051,421
Virginia	143	13,668,318
Vermont	5	375,743
Washington	76	6,668,081
Wisconsin	6	772,095
West Virginia	2	89,447
TOTALS	2509	$239,556,799

FY 1985 PHASE I AND PHASE II SBIR AWARDEES BY STATE

State	Number of Awardees	Dollar Amount*
Alabama	26	$ 3,446,639
Arizona	22	1,408,979
Arkansas	2	98,234
California	412	40,180,943
Colorado	57	5,180,042
Connecticut	46	4,323,768
District of Columbia	11	1,121,855
Delaware	6	935,228
Florida	34	1,960,680
Georgia	12	956,998
Hawaii	3	290,000
Idaho	2	299,950
Illinois	32	2,806,104
Indiana	14	2,563,537
Kansas	8	460,686
Kentucky	1	50,000
Louisiana	9	854,013
Massachusetts	236	28,688,668
Maryland	104	9,826,650
Maine	8	629,767
Michigan	33	4,008,549
Minnesota	28	2,287,928
Missouri	10	669,251
Mississippi	3	104,000
Montana	2	515,127
North Carolina	27	2,096,105
Nebraska	1	200,000
New Hampshire	25	2,019,573
New Jersey	44	4,375,593
New Mexico	41	3,577,752
Nevada	7	781,827
New York	72	7,657,428
Ohio	64	5,950,391
Oklahoma	6	1,346,436
Oregon	16	2,106,988
Pennsylvania	82	9,485,420
Rhode Island	5	365,288
South Carolina	3	139,833
Tennessee	20	1,733,056
Texas	50	3,634,479
Utah	35	2,723,905
Virginia	111	12,005,162
Vermont	4	368,177
Washington	62	6,704,143
Wisconsin	7	460,175
West Virginia	1	50,000
TOTALS	1804	$181,449,327

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*Based on awards issued and funding obligations for all agencies except DOD. DOD activity is based on awards issued and 1985 outlays for those awards. Outlays for DOD awards issued in previous years of $17.7 million are not included in Exhibit 3.4.

FY 1984 PHASE I AND PHASE II SBIR AWARDEES BY STATE

State	Number of Awardees	Dollar Amount
Alabama	17	2,805,221
Arkansas	1	214,193
Arizona	8	1,976,146
California	253	27,473,222
Colorado	29	2,109,146
Connecticut	24	1,840,956
District of Columbia	6	450,896
Delaware	5	1,067,040
Florida	17	1,083,670
Georgia	13	1,236,739
Hawaii	3	331,996
Iowa	3	135,687
Idaho	4	474,901
Illinois	25	2,538,973
Indiana	9	1,020,681
Kansas	1	48,960
Kentucky	2	69,323
Louisiana	4	210,038
Massachusetts	205	22,856,135
Maryland	47	5,584,248
Maine	7	321,849
Michigan	25	2,874,007
Minnesota	14	1,301,655
Missouri	6	544,150
Mississippi	6	325,317
Montana	2	84,316
North Carolina	18	2,674,997
Nebraska	3	593,506
New Hampshire	9	1,557,412
New Jersey	28	2,402,812
New Mexico	15	1,192,652
Nevada	2	88,265
New York	45	4,439,061
Ohio	49	5,855,704
Oklahoma	4	192,356
Oregon	22	2,259,844
Pennsylvania	51	5,515,485
Rhode Island	3	305,868
South Carolina	1	49,955
South Dakota	1	45,636
Tennessee	12	1,351,130
Texas	29	1,762,734
Utah	21	1,616,269
Virginia	79	6,852,505
Vermont	1	59,871
Washington	46	5,377,178
Wisconsin	6	851,089
TOTALS	1,181[1]	$124,023,793[2]

[1] Distribution excludes 127 Phase I awards and dollars from NASA and 29 Phase II awards and dollars from DOO.

[2] Dollars are higher than actual amount awarded in FY 84 as a result of some agencies including the total dollar value of Phase II awards compared to amount obligated in FY 84.

FY 1983 PHASE I SBIR AWARDEES BY STATE

State	Number of Awardees	Total [illegible] Amount
Alabama	15	709,051
Arizona	8	343,327
Arkansas	1	58,946
California	148	7,990,691
Colorado	16	731,457
Connecticut	19	981,777
Delaware	2	93,000
District	6	239,315
Florida	9	427,686
Georgia	3	198,685
Hawaii	1	71,800
Idaho	1	43,114
Illinois	12	567,693
Indiana	6	244,387
Kansas	1	110,034
Kentucky	1	49,637
Louisiana	1	70,870
Maine	6	276,462
Maryland	35	1,710,950
Massachusetts	115	5,732,481
Michigan	11	506,121
Minnesota	4	164,019
Mississippi	1	45,000
Missouri	3	103,500
Nebraska	3	109,489
Nevada	1	49,722
New Hampshire	8	322,145
New Jersey	14	696,902
New Mexico	10	460,535
New York	21	1,065,992
North Carolina	15	663,999
Ohio	28	1,432,865
Oklahoma	3	114,173
Oregon	7	286,244
Pennsylvania	24	1,106,138
Rhode Island	3	165,597
Tennessee	11	505,124
Texas	24	1,091,643
Utah	12	566,378
Virginia	46	2,304,801
Washington	28	1,567,822
Wisconsin	5	205,223
TOTALS	686	$ 34,101,795

The above distribution excludes the DOD and NSF FY '83 Phase II awards. States not mentioned received no awards.

WEDNESDAY, MARCH 21, 1990.

COMMISSION ON AGRICULTURAL WORKERS

WITNESSES

HENRY J. VOSS, CHAIRMAN
RICHARD PETERSON, EXECUTIVE DIRECTOR
RICHARD MINES, RESEARCH DIRECTOR
LUIS TORRES, GENERAL COUNSEL

Mr. SMITH. Next we have the Commission on Agricultural Workers.

The fiscal year 1991 budget request is for $657,000, which is $357,000 over the amount appropriated in 1990. At this point we will insert the budget justifications submitted in support of this request.

[The justification follows:]

COMMISSION ON AGRICULTURAL WORKERS
(DETAILED JUSTIFICATION)

The Commission on Agricultural Workers was established by the Immigration Reform and Control Act of 1986 (IRCA) which was signed into law on November 6, 1986.

Six of the Commissioners were appointed by the President in consultation with the Departments of Agriculture and Labor and the Attorney General. Three Commissioners were appointed by the President pro tempore of the U.S. Senate and three by the Speaker of the House. Commissioners were sworn, established by-laws,and commenced the work of the Commission at their December 1989 meeting in Washington D.C.

The Congressional mandate for the Commission is to conduct a review of the impact of the special agricultural worker (SAW) provisions of the act and to submit a report containing appropriate recommended changes to Congress by November 6, 1991. Included in the report will be an evaluation of the methodology used by the Administration in determining the future need for replenishment agricultural workers (RAW's). The Commission must determine:

- The impact of the special agricultural worker provisions on the wages and working conditions of domestic farmworkers, on the adequacy of the supply of agricultural labor, and on the ability of agricultural workers to organize.

- The extent to which aliens who have obtained lawful permanent or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services and the requirement that aliens who become special agricultural workers under section 210A of the Immigration and Nationality Act perform 90 man-days of seasonal agricultural services for certain periods in order to avoid deportation or to become naturalized.

- The impact of the legalization program and the employers' sanctions on the supply of agricultural labor.

- The extent to which the agricultural industry relies on the employment of a temporary workforce.

- The adequacy of the supply of agricultural labor in the United States and whether this supply needs to be further supplemented with foreign labor and the appropriateness of the numerical limitation on additional special agricultural workers imposed under section 210A(b) of the Immigration and Nationality Act.

- The extent of unemployment and underemployment of the farmworkers who are United States citizens or aliens lawfully admitted for permanent residence.

- The extent to which the problems of agricultural employers in securing labor are related to the lack of modern labor-management techniques in agriculture.

- Whether certain geographic regions need special programs or provisions to meet their unique needs for agricultural labor.

- Impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in international markets.

In response to its Congressional mandate, the Commission has determined the need for a significant research program in order to properly conduct its review. The Commission will implement the detailed work plan at it's next meeting on April 19, 1990. Funds permitting, the research effort will include public hearings to begin late in FY 90, a survey and analysis of existing relevant data bases by the Commission staff and a limited amount of commissioned original research. The Commission will meet with members of public and private organizations representing a wide variety of perspectives on the issues surrounding agricultural labor.

STAFF

For FY 1991 the Administration requests $420,000 for salaries and benefits for full-time employees for the Commission Workers. This amount represents the projected actual cost of full staffing of our seven authorized positions. These include: the Executive Director, General Counsel, Research Director, Research Assistant, Program Coordinator, Staff Assistant, and Secretary.

Other budgeted personnel expenses for FY 1991 include $49,000 for salaries and benefits for the twelve Commissioners.

TRAVEL

$76,000 is requested for travel in FY 91. Commissioners and professional staff members will be required to travel to meetings and hearings of the Commission which will be held outside of the District of Columbia. Some staff travel will also be required in connection with the administration of the research program.

RENTAL PAYMENT

The Administration requests $38,000 for office rental payments to the General Services Administration for FY 91.

TELEPHONES AND POSTAGE

The Administration requests $30,000 for telephone and postage costs for FY 91. Commission operations require extensive use of telephones for both local and long-distance calling to maintain communication with Commission members, other agencies and diverse interest groups as well as state governments. Frequent mailings are made to Commissioners, and other individuals and organizations nationwide.

PRINTING AND REPRODUCTION

The Administration requests $12,000 in FY 91 for printing costs. In 1991, these costs will include printing a variety of research papers, Federal Registry notification and other informational materials as required.

OTHER SERVICES

The Administration requests $22,000 for support services during FY91. These include various administrative support services provided reimbursably by GSA, the professional services of substantive experts, and other services necessary to support Commission meetings, hearings and research activities.

SUPPLIES

The Administration's request includes $10,000 for purchase of supplies during FY91. This amount will cover materials for mailing and copying, and ordinary office supplies such as papers, pens and pencils.

Mr. SMITH. Henry Voss is the Chairman of the Commission. Do you have a statement?

OPENING STATEMENT OF HENRY VOSS

Mr. VOSS. Yes, I do, Mr. Chairman.

I would like to thank you for all of the support that the Commission on Agricultural Workers has received in the past and we will take a few minutes to briefly tell you what our needs are.

Mr. SMITH. All right, proceed.

Mr. VOSS. The agricultural labor issue has been among the most divisive and emotional charged question of public policy over the years and they have been addressed by several previous commissions, had countless hearings, and numerous official reports.

Members of Congress will remember the often painful legislative debates over these issues. The last one preceding the enactment of the Immigration Reform and Control Act of 1986, which created this Commission.

It is within the historical context that Congress mandated to the Commission a formidable responsibility for carrying out a detailed review of significant agricultural labor and related issues.

We are directed by IRCA to address the following: the impact of the special agricultural provision on wages and working conditions of domestic farm workers; the extent to which aliens who have obtained lawful permit or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services; the impact of legalization programs; and the employer sanctions on the supply of agricultural labor; the extent to which the agriculture industry relies on the employment of a temporary work force; the adequacy of the supply of agricultural labor in the United States; the extent of unemployment and underemployment of farm workers, who are United States citizens, or legally admitted aliens; the extent to which the problem of agricultural employers in securing labor are related to the lack of modern labor management; or whether certain geographical regions need special programs; the impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in the international market.

And the Commission shall conduct an overall evaluation of the special agricultural worker provisions, including the process for determining whether or not an agricultural labor shortage exists.

The Commission has a narrow window of time in which to address these issues because the necessary data is only now becoming available. In order to meet the November 6, 1991, deadline, for the report to Congress, the Commission will thus be intensely engaged over the next 20 months in gathering data and analyzing existing information.

The administration requested $657,000 to support the work of the Commission in fiscal year 1991. The request was prepared before the Commission was fully operational and in recent months, since the Commission has become fully staffed, it has carefully examined its mandate to translate it into concrete tasks.

We have completed two formal consultations with leading scholars from around the nation on the methods and procedures we need to use in conducting our review.

We would like to make maximum use of existing information whenever possible, to avoid duplication of effort and unnecessary expense.

For example, the Commission has access to the national and state data bases which could be analyzed by staff, including the SAW reporting forms; ESA 92's, which are being collected by the Census Bureau; the National Agricultural Workers' Survey, being conducted by the Department of Labor; and the Quarterly Agricultural Labor Surveys by the Department of Agriculture.

Our review of existing data led us to conclude that while much information should be available from current sources, the more important data would come from original research undertaken in the field, including testimony taken at public hearings throughout the country.

The original research needs to be developed in response to the unique characteristics of each agriculture region and of a number of representative crops.

Mr. Chairman, I am personally committed to assuring that the Commission is fully and easily accessible to concerned individuals and groups, associated with all of the major economic social and regional perspectives on agricultural questions.

In summary, I would like to emphasize the following: as chairman of the Commission, I am committed to an even-handed approach to the task before us and to seeking realistic solutions to historically contentious issues.

We will diligently pursue this goal within the funding of the administration's request and congressional appropriations.

I assure the committee that the Commission will prepare an objective report which takes into account the significant interests involved in the production of our multi-billion dollar food and fiber crop.

If workable solutions are to be found, they must, I believe, fairly address the real needs and concerns of both workers and growers as well as those of the American consumer.

I would be happy to answer questions, if I could, Mr. Chairman.

[The prepared statement of Mr. Voss follows:]

STATEMENT

OF

HENRY J. VOSS

CHAIRMAN

COMMISSION ON AGRICULTURAL WORKERS

BEFORE THE

SUBCOMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

MARCH 21, 1990

Mr. Chairman and Members of the Committee:

I want to thank you for your past support of the Commission on Agricultural Workers and for this opportunity to appear before the subcommittee to give testimony in support of the FY 1991 appropriation request.

Agricultural labor issues have been among the most divisive and emotionally charged questions of public policy. Over the years they have been addressed by several previous commissions, at countless hearings, and in numerous official reports. Members of Congress will remember the often painful legislative debates over these issues; the last one preceding the enactment of the Immigration Reform and Control Act of 1986 (IRCA) which created this commission.

It is within this historical context that Congress mandated to the Commission a formidable responsibility to carry out a detailed review of significant agricultural labor issues and to make legislative recommendations to Congress. We are directed by IRCA to address the following:

-- The impact of the special agricultural worker provisions on the wages and working conditions of domestic farmworkers, on the adequacy of the supply of agricultural labor, and on the ability of agricultural workers to organize.

-- The extent to which aliens who have obtained lawful permanent or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services and the requirement that aliens who become special agricultural workers under section 210A of the Immigration and Nationality Act perform 90 man-days of seasonal agricultural services for certain periods in order to avoid deportation or to become naturalized.

-- The impact of the legalization program and the employers' sanctions on the supply of agricultural labor.

-- The extent to which the agricultural industry relies on the employment of a temporary workforce.

-- The adequacy of the supply of agricultural labor in the United States and whether this supply needs to be further supplemented with foreign labor and the appropriateness of the numerical limitation on additional special agricultural workers imposed under section

210A(b) of the Immigration and Nationality Act.

-- The extent of unemployment and underemployment of farmworkers who are United States citizens or aliens lawfully admitted for permanent residence.

-- The extent to which the problems of agricultural employers in securing labor are related to the lack of modern labor-management techniques in agriculture.

-- Whether certain geographic regions need special programs or provisions to meet their unique needs for agricultural labor.

-- Impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in international markets.

-- The commission shall conduct an overall evaluation of the special agricultural worker provisions, including the process for determining whether or not an agricultural labor shortage exists.

The Commission has a narrow window of time within which to address these issues because the necessary data is only now becoming available. The findings and recommendations of the Commission should, and we hope will, facilitate Congressional deliberations to provide more permanent legislative solutions to the seemingly never ending debate on farm labor issues. In order to meet the November 6, 1991, deadline for the report to congress, the Commission will thus be intensely engaged over the next 20 months in gathering data and analyzing information.

In recent months since the Commission has become fully staffed, it has carefully examined its mandate to translate it into concrete tasks. In addition to multiple conversations with experts in the field, we have completed formal consultations with leading scholars from around the nation on the methods and procedures for conducting our review. It is our opinion now that due to the unique conditions present in agriculture, including regional and crop diversity, the issues we are dealing with may defy generalized approaches.

The Commission staff has already begun to collect, review and analyze all currently available data from both government and private sector sources. We intend to make maximum use of existing information whenever possible to avoid duplication of effort and unnecessary expense. For example, the Commission has access to national and state data bases which could be analyzed by staff.

These include the SAW-reporting forms (ESA-92) being collected by the Census Bureau, the National Agricultural Worker Survey being conducted by the Department of Labor, the Quarterly Agricultural Labor Survey done by the Department of Agriculture, the Hired Farm Workforce form data collected by the Census Bureau and the employment data reported to the states by all employers who pay Unemployment Insurance (ES-202).

The Commission will use these data bases to focus on the broad issues at the national level, such as the countrywide impact of the IRCA on wages and working conditions or whether the SAW provision beneficiaries as a group have remained in or departed from perishable crop agriculture.

While these "big picture" types of analyses are helpful in assessing national trends and the aggregate effects of recent legislation, they will tell us nothing about conditions in individual crop sectors or regions of the country. Furthermore, numbers alone can not and will not tell the whole story. There is a large body of non-statistical information that the Commission must take into consideration. Public hearings and case study research will provide the most effective means of gathering this material. In addition, as our work progresses we plan to hold periodic seminars on specific topics with persons knowledgeable in the field, to assist us in our review and interpretation of research results and to assure that nothing of significance is overlooked.

Our review of existing data has led us to conclude that while much information should be available from current sources the more important data would come from original research undertaken in the field including testimony taken at public hearings throughout the country. The original research needs to be developed in response to the unique characteristics of each agricultural region and of a number of representative crops.

The FY 1991 request of $657,000 will support the following plan of action to address issues: limited computer analysis of existing data bases will be undertaken; on-site reviews will be conducted in selected representative agricultural areas; relevant published research and data summaries will be subjected to a literature review and public hearings will be held in two locations, one in Washington D.C. and another in an appropriate location in the western part of the country.

Mr Chairman, I am personally committed to assuring that the Commission is fully and easily accessible to concerned individuals and groups associated with all major economic, social and regional perspectives on agricultural labor questions. Agricultural labor markets vary significantly from one region to another and from crop to crop. We want to insure that farmworkers and farmers representing all areas of the country and types of crops have a fair opportunity to express their concerns to the Commission.

In summary, I would like to emphasize the following: as Chairman of the Commission, I am committed to an evenhanded approach to the task before us and to seeking realistic solutions to these historically contentious issues. We will diligently pursue this goal within the funding of the Administration's request and Congressional appropriation. I assure the committee that the Commission will prepare an objective report, which takes into full account the significant interests involved in the production of our multi-billion dollar food and fiber crop. If workable solutions are to be found they must, I believe, fairly address the real needs and concerns of both workers and growers as well as those of the American consumer.

Mr. Chairman, in concluding my remarks, I would like to reiterate my deep appreciation for the past support and understanding of this committee. Your continuing support will enable the Commission to provide the type of input to your consideration of agricultural labor legislation envisioned in our congressional charter. I would now be happy to answer any questions you or other members of the subcommittee may have. Thank you.

Mr. SMITH. Well, as you, I am sure, are aware, as much or more than anybody, you have questions before you that are going to be controversial no matter what. A lot of people are very interested in your Commission's activities. The economic interests of all the parties are not identical and so it is difficult under any condition to come up with conclusions that satisfy everyone.

However, it is absolutely necessary that you have credibility.

MAKEUP OF COMMISSION

How many members of the Commission are there?

Mr. VOSS. There are 12 members.

Mr. SMITH. Twelve members, and how much time does the Commission business take?

Mr. VOSS. Well, the Commission has had two meetings; one a swearing-in organizational meeting and a second meeting, in December, in which they actually formulated policy, and gave direction to the staff.

Mr. SMITH. How much time do you anticipate that will be required; how many meetings will you have to have and will there be time required in between meetings?

Mr. VOSS. We anticipate the Commission will probably have to have a minimum of three meetings per year, in addition to the public hearings that will be conducted in the field.

PUBLIC HEARINGS

Mr. SMITH. And how many public hearings do you expect to have?

Mr. VOSS. The administration's budget proposal provides for only two hearings in the 1991 fiscal year. We believe we need at least seven additional public hearings out in the field for a total of nine in FY 1991.

We have funding for three hearings in the 1990 budget.

Mr. SMITH. Did you ask for funding for public hearings that was turned down or what did you ask for from OMB?

Mr. VOSS. OMB and GSA put together the budget before we had a full Commission and staff on board and how it was put together is anybody's guess, I think, because there was no direction at that point in time.

We have since had one Commission meeting and brought staff together that has outlined the program as we have it today.

Mr. SMITH. How much do public hearings cost; what kind of a cost is that?

Mr. VOSS. I believe that we are estimating that the Commission's cost would be about $15,000 per each hearing.

Mr. SMITH. What is the $15,000 for?

Mr. VOSS. Travel and salary that is called for, for the Commissioners when they are on official business, staff travel, transcription of proceedings and miscellaneous expenses.

Mr. SMITH. So costs, your estimate is a total of $15,000 for a public hearing, is that it?

Mr. VOSS. Yes, the only additional cost would be that for witnesses that could not afford to otherwise attend.

Mr. Smith. And how many hearings do you think that you need in 1991, that is not in your budget?

Mr. Voss. Nine hearings in 1991 would bring us up to the number that we believe that we need. The Administration's request seeks funds for only two hearings in FY 1991.

Mr. Smith. Now, are these open hearings?

Mr. Voss. These would be open hearings.

Mr. Smith. Are your Commission meetings open, too?

Mr. Voss. Yes, sir.

Mr. Smith. Everything is open?

Mr. Voss. Everything is open.

CREDIBILITY OF COMMISSION

Mr. Smith. Now, do you understand what I was saying about credibility? It is important that you have credibility.

Mr. Voss. Yes, sir, absolutely.

Mr. Smith. And I have been told that the makeup of the Commission—I know that you did not appoint the members of the Commission—but the makeup of the Commission has caused some people to doubt the credibility of the Commission.

Do you agree with this, or not?

Mr. Voss. I think from sheer numbers, I can understand where some people might think that, but I think that the action that the Commission has taken so far, and the staff that they have selected, would indicate that the Commission is open and looking for a well-balanced report. The various interests and backgrounds of the members of the Commission and staff should be helpful in producing a credible balanced report.

Mr. Smith. Do you have any recommendations for changing the makeup of the Commission? I know that this is not really your primary responsibility, but to overcome the problem that I am talking about—do you have any ideas about how they can be overcome, short of somebody resigning that probably does not want to? [Laughter.]

Mr. Voss. Well, I would have to say that I believe the only way that you could really make the changes would be to add to the Commission and I am not sure what that procedure would entail. It would be up to Congress to take that step. I would not object to that; my only concerns would be that the time required to name new commissioners and bring them up to speed with Commission business could delay the development of the report and cause the Commission to miss the mandated deadline.

Mr. Smith. When is the Commission due to make that report to us?

Mr. Voss. November 6th of 1991.

Mr. Smith. Do you know of any resignations that are likely or——

Mr. Voss. None that I know of.

Mr. Smith. It is not unusual with a 12-member commission for one or two or three to be resigning, but you do not know of any?

Mr. Voss. I do not know of any at this point.

COMMISSION ACCOMPLISHMENTS

Mr. SMITH. Have you had any accomplishments to date; what are your accomplishments to date?

Mr. VOSS. To date we have put the staff together; we have brought in scholars to take a look at the 10 questions that Congress had in its mandate and to suggest ways to get the information that would reflect the various interests in the country, as well as the major crops that are using temporary labor that need to be looked at.

We have determined that we should have at least 12 studies made, although we have up to 50 subject matter areas that have been identified by staff. The Commission itself, in its April meeting, would have to determine the priorities of importance for these 12 studies depending on the amount of resources we will have available. Unfortunately, however, as I have mentioned, the FY 1991 request will not support a research agenda. It does not provide the necessary resources to carry out nine studies.

What I am saying, I guess is, that I think that we are ready to go. We have been gathering the data and the information to move ahead and now is the time to do it.

COMMISSION STAFFING

Mr. SMITH. Your staff is completed, is it?

Mr. VOSS. We will need another secretary and some support staff, but the working staff is ready, yes, sir.

FOLLOWUP ACTIVITY

Mr. SMITH. And what kind of follow-up activity do you anticipate will occur or will be needed after the commission reports?

Mr. VOSS. I do not anticipate that the commission will have any activity after the report, beyond what Congress might direct them to do. The legislation provides that the Commission is in existence through February of 1992, although the report is due in November of 1991. Thus there is a period of time for followup activities if there is any Congressional interest in having the Commission do so.

CREDIBILITY OF COMMISSION

Mr. SMITH. Do you have anything more to say about how you can make your report as credible as possible? You recognize what I am saying is that if this commission is to fulfill the need that exists, then a broad spectrum of both employers and employees and others that are involved, must feel that the commission was fair and came up with a report, that even if they do not agree with it, 100 percent, was a good and reasonable report.

And in view of the makeup of the commission, they are already suspicioning before they ever see the report, that it will not be that. Do you have anything to say about how you can overcome that liability you are starting out with?

Mr. VOSS. At this point in time, we have provided for a five-member advisory committee made up of people from various agencies with the Federal Government that would review the research projects before they are commissioned; the work that comes back; and the overall report of the commission before we would present it.

They are from labor, agriculture, INS, and census. They would be people who would bring a broad overview on the work that the commission will be doing.

Mr. SMITH. Well, understand what I am saying is that just having a vote 6-to-6, or 5-to-5 or 11-to-1 does not mean a thing unless the report has general acceptance.

Mr. VOSS. Yes.

Mr. SMITH. And so it is necessary in this kind of a process—we do not want to be spending money and then not doing any good—it is necessary to somehow bend over backwards to feel that while the majority obviously are not going to bring you something that feels unfair, that you make sure that you are being fair to the ones that do not happen to have the majority of the votes.

Mr. VOSS. We believe that having public hearings out in the various labor-using areas of the nation gives an opportunity for people who would not otherwise necessarily participate in the overall process, an opportunity to be heard and to speak for themselves. We will, of course, also hear from their organizations and associations.

I think the commission, as a whole, would be receptive to doing anything that is reasonable if the suggestions are out there.

Mr. SMITH. Well, this is just in passing, but I happened to be on a committee around here to rewrite the rules of the House, and if you think that is not something contentious, that certainly was what we tried to do was to find out what those who were not in the majority felt like they could live with, and we talked back and forth and we came up with a consensus reports.

You know, you might not like it, but you try to consider the other person's problems.

There is a feeling that has been expressed to me by several members, and I know that it was expressed to them by their constituents, that the makeup of the commission is such that it represents a sort of a liability on your credibility before you even get started.

And so you are going to have to be aware of that and do whatever you can to overcome that problem, unless four or five members resign. Even if they did, and you replaced them with some people that balanced the commission better, you still have that problem of credibility.

Mr. VOSS. Right.

Mr. SMITH. Congressman AuCoin, a member of the Appropriations Committee, has requested on opportunity to ask you a few questions.

Mr. VOSS. Surely.

Mr. SMITH. Mr. AuCoin?

Mr. AUCOIN. Thank you, Mr. Chairman.

IMPACT ON PACIFIC NORTHWEST

Mr. Chairman, I appreciate your letting me sit in on your subcommittee today. I have a couple of questions that I want to ask

Mr. Voss, because of the crucial importance of this commission on the agricultural makeup and characteristics of my district.

Mr. Voss, some areas of the country are very well represented by members of your commission, while other areas are not represented whatsoever.

There are no members of the commission from the Pacific Northwest and yet, growers and farm workers in the Pacific Northwest seem to me to be in a unique situation. I am from the State of Oregon. I have served in the Congress for over 15 years and represented these people, and I can attest to the fact that historic patterns of farm worker migration from south to north are changing.

Northwest growers are especially concerned today about what the future may hold for them in terms of manpower that they have to have for these labor intensive crops.

I have been in touch with the commission to convey my concerns to you and I know that others have as well. Could you tell me and also Chairman Smith for the record of the subcommittee, what you have been hearing about the farm labor shortages in the Pacific Northwest and whether you think those concerns that have been expressed are justified?

Mr. Voss. I think that they are justified.

I have been familiar with the problems in the northwest for the last few years, and they certainly are the end of the line, as labor seems to become——

Mr. AuCoin. When you say "end of the line", what do you mean?

Mr. Voss. Well, as the migrants go and labor appears to be tighter in California this past fall and winter than it has been for some time, which means that it is even tighter the further north you go.

And so those are real concerns. The Commission is concerned. Several commission members have worked closely with people from the Oregon and Washington areas over the past few years and I know they have those same concerns.

RESEARCH PLAN

Mr. AuCoin. I know the commission is putting together a research plan of some sort to address the impacts of immigration reform and to help us plan for whatever the future may have in store. I understand your research plan will not be finalized until the commission meets next month, however.

Nevertheless, what assurances can you offer me and the people I represent that the concerns of Oregon and other northwest states will be fully addressed? Will you hold public hearings in Oregon? Will your case studies focus on the northwest? Can you answer those questions and add to them anything that we could use for assurances because we have some people in a high state of anxiety?

Mr. Voss. I do not believe that I could specifically agree to a study today or where we would hold a meeting in the northwest, but I would assure you that if we have the additional resources we need, we will assure coverage of all representative areas of the country. Unfortunately there are no resources in the 1991 budget as proposed by the administration for the necessary research or the full schedule of nine field hearings. If the schedule is fully funded there would be at least one hearing in the northwest and at least one study to look at the problems in the northwest, particularly in the areas of strawberries, and berries and apples.

Mr. AuCoin. I did not understand what that is contingent on. Can you give that to me?

Mr. Voss. The budget is proposed of $657,000 and it does not provide funding for either research projects or an adequate number of field hearings in FY 1991. There are provisions for three studies in the 1990 budget, but nothing in the 1991 budget. There are provisions for three hearings in the FY 1990 budget but only two of the nine needed in FY 91 are provided for in the administration's request.

Mr. AuCoin. Well, what if you got the budget that you need? Cannot you promise me that given the problems that we have in the northwest that you can have a field hearing in somewhere in the northwest to address that problem that growers have at the end of the migratory worker line, as you have indicated in your statement?

Mr. Voss. Yes, I believe we can certainly commit to a hearing if we have the funding that we require.

HEARING IN PACIFIC NORTHWEST

Mr. AuCoin. If you get the funding you need, you can have a hearing in the Pacific Northwest?

Mr. Voss. Yes, we believe that would allow us to geographically to cover the areas of the country where the majority of the labor is used.

Mr. Smith. Are you talking about 1990 or 1991?

Mr. Voss. In the 1991 budget.

Mr. AuCoin. And the hearing would then be in the next calendar year, or would it be this year?

Mr. Voss. In your area, the hearing would have to be this fall, we do have funding for a couple of hearings in the 1990 budget, which we could use in those areas this fall because we would have to gather our data in the fall and on through the spring in order to have the report next year.

Mr. AuCoin. Can you promise me that the hearing in the northwest would be in the State of Oregon?

Mr. Voss. I can use the persuasion of the Chairman to try to get the commission to do that. The commission has not yet set priorities for hearings and for studies. At the April meeting we will submit a schedule for approval.

Mr. AuCoin. Will you——

Mr. Voss. I cannot go that far, but I am sure we will have one in the northwest.

Mr. AuCoin. Will you recommend a hearing in Oregon to the commission?

Mr. Voss. I will do that.

Mr. AuCoin. Thank you.

Thank you, Mr. Chairman.

Mr. Smith. Okay, thank you for your testimony, Mr. Voss.

[The following questions were submitted to be answered for the record:]

Questions Submitted by Congressman Smith

Proposed Budget for FY 1991

Q. Your budget request for fiscal year 1991 is for $657,000, which, while more than double the amount appropriated in 1990, is less than the amount actually available in the current fiscal year when carryover funds from fiscal year 1989 are also considered. Do you consider this to be an adequate level of funding for the Commission? If not, what do you see as a more reasonable 1991 budget request?

A. I believe that we could complete our work including the necessary crop studies and hearings with a total fiscal year 1991 appropriation of $1,467,000. This is approximately $810,000 more than is contained in the Administration's budget. That additional money, however, represents the costs of the research and hearings programs which are crucial to the Commission's ability to complete its task along with several other items which were neglected or underfunded in the original request. Let me emphasize that I personally and the Commission as a whole are committed to accomplishing the job before us in the most economical way by the mandated date. We are also aware, however, that to be credible, our final report must measure fairly the changes that have occurred since the passage of the IRCA and take into account the opinions of all the major interests involved in the issues that we, and ultimately you, will be addressing. It is after all to you, the Congress, that we must report and we want to be sure that we are providing you with the most accurate and reliable information to use in your future deliberations.

The increased funds would provide for nine field hearings in FY 1991, while the Administration's request would permit only two. The additional funds would give us a program total of 12 hearings, including the three already provided for in FY 1990. The higher level of funding would also cover a slight increase in infrastructure support costs related to the additional hearings.

The increased request would provide for nine case studies in FY 1991, while the Administration's request would provide for none.

The increased funding would also permit us to order printing and publication services from the GPO in FY 1991 in order to produce a report to Congress by November 6. We would also be able tofully fund the rental costs GSA charges for our office space.

Lastly, the increased appropriation would cover the $31,300 that GSA charges us for certain administrative support services.

Our estimated FY 1991 requirements by object class are the following:

Commission on Agricultural Workers
FY 1991 Requirements (in thousands)

Personnel compensation:	
Full-time permanent.	364
Other than full-time permanent..	90
Other personnel compensation....	---
Total personnel compensation..	454
Civilian personnel benefits.....	98
Travel & transport. of persons..	135
Rental payment to GSA...........	57
Com., util., & misc. charges....	30
Printing & reproduction	94
Other services..................	577
Supplies and materials..........	10
Equipment	2
Total obligation	1,467

Q. Your report to Congress is due in November 1991, and the Commission is scheduled to sunset in February 1992. Does this budget fund the Commission through its sunset, or will we have you back before us next year asking for additional funds?

A. Neither the Administration request nor my current estimate of the Commission's FY 1991 budgetary needs includes funds for FY 1992 expenses. The Commission's report to Congress is due November 6, 1991, and the law provides for sunset in February 1992. Thus, there will be a requirement for FY 1992 funding, although at a greatly reduced level if $1,467,000 is provided for FY 1991 and no new requirements are levied upon us. We would expect to nonrecur at least $1,000,000 in FY 1992, although the specific numbers will be determined in coordination with the Office of Management and Budget as a part of the FY 1992 budget process.

Commission Staffing

Q. How many people do you currently have on loan from other agencies?

A. Two persons are currently on loan from other agencies; one from the Department of State and one from the Department of Labor.

Other Support to the Commission

Q. What other agencies of the Federal Government provide support to the Commission? Please list for the record those agencies and the type and amount of such support, including staffing and other assistance.

A. In order to provide a nucleus of staff needed to initiate the work of the Commission, the Departments of State and Labor have provided two officers on temporary detail. The Department of Labor has provided an outstanding research program director on a temporary basis to assist in formulating the Commission's research program. The Department of State has provided on a similar temporary basis an outstanding administrator experienced in the implementation of IRCA who has assisted in the myriad tasks confronting startup of a small Commission.

In addition, several departments and agencies have been contacted and requested to cooperate. The Census Bureau, the Department of Labor (DOL), the U.S. Department of Agriculture (USDA), the Immigration and Nationalization Service (INS), and state employment security agencies will be asked to cooperate to the extent possible. Specifically:

-- The Census Bureau will provide intermediate analyses of the ESA 92 which reports days worked by Special Agricultural Worker (SAW) and Replacement Agricultural Worker (RAW) workers recorded by employers across the country.

-- The DOL is providing the RAW data from the National Agricultural Worker Survey (NAWS) survey which provides detailed wage and employment information on about 2500 farmworkers per year. It will also provide data from the Potential Agricultural Worker Survey (PAWS) and the Farm Labor Supply Survey (FLSS), surveys which test the interest of non-farmworkers in field work. In addition, the Employment Standards Administration (ESA) will provide data from the Safety Violations Record which measures indices of working conditions. The Bureau of Labor Statistics (BLS) will provide data on wage levels in nonfarm industries and data on unemployment levels by county. The Employment and Training Administration (ETA) will provide data on the Prevailing Wage Survey (ETA232) which will help us measure wages in H2A areas.

-- The USDA has been asked to provide analyses of some unpublished data from its Quarterly Agricultural Labor Survey (QALS). It also has made available to us the Hired Farm Work Force (HFWF). The USDA will also be engaged in intermediate analyses on the impacts of labor cost increases on the competitiveness of agricultural industries which will be useful to our work.

Additional levies will be made on these and other Federal agencies if and as the need arises throughout the work of the Commission. These agencies, as well as the Office of Management and Budget have been very forthcoming in their readiness to assist the Commission.

Public Hearings

Q. You mentioned in your statement the importance of holding public hearings for gathering data for the Commission's report. Will you conduct any of these hearings in fiscal year 1990?

A. Yes. Our FY 1990 appropriation will support three hearings in FY 1990 and we expect to schedule those hearings in the next few months.

Q. Your statement indicates that only two public hearings are provided for in your fiscal year 1991 budget request. Do you consider this to be an adequate number of hearings? Why is it necessary to hold one of these hearings in Washington, DC?

A. Two hearings in FY 1991 are not adequate to ensure that the Commission will have a sound factual foundation for its report to Congress. Neither are two hearings adequate to meet our obligation to guarantee access to all sides of the controversial issues we are directed to address. Such factual development and access requires that the Commission schedule at least twelve field hearings, the three already funded in FY 1990 and hopefully nine to be funded in FY 1991.

A hearing in Washington, DC would be considered if we could only have two hearings in FY 1991. This is a central location for east coast agricultural interests. Also many national organizations representing growers and farmworkers are headquartered here.

Q. If you are able to conduct only one public hearing on the west coast, what provisions will you make to assure that witnesses from all other geographical areas can participate in the hearing?

A. Within funding constraints, we would attempt to schedule a sampling of witnesses representing diverse points of view, including both industry and labor, and various crops and geographical areas. However, our ability to provide the type of access we (and a number of members of Congress, Senators, growers, and representatives of labor) believe is necessary in order to provide a useful report to Congress will be seriously limited. We would certainly attempt to have a balanced schedule of witnesses; nevertheless, time constraints and costs, would necessarily impose unfortunate limits in a single west coast hearing.

Funding at the higher level would provide for more hearings and funds to ensure the attendance and participation of necessary witnesses, who otherwise could not attend, particularly farmworkers themselves.

Q. Which locations are you currently considering for your west coast hearing?

A. That is a matter to be decided by the Commission which will be on the agenda for the April 19, 1990 meeting.

Case Study Research

Q. Your statement indicates that case study research is another effective means of gathering data for your report. How do you intend to identify these cases?

A. Staff has proposed two criteria for the selection of case studies. The first is the case studies' potential to provide information needed to address the mandated questions which is not available from other sources. Secondly, to assure that all signicant types of labor markets would be covered by the research agenda, a list of labor market types representing the most important variations was prepared. The major characteristics of crops, workers and employers were considered and included. In making our choices of where to locate the studies and hearings, each case study will be measured against these criteria.

Q. Will Commission staff be directly involved in conducting the research or interviews, or will you rely on case studies identified and conducted by other sources?

A. Staff will be deeply involved in all research projects. Only the actual research in the field or case studies will be contracted. The Commission's plan of action maximizes the use of existing information. Staff will catalogue all available data from government surveys, censuses and administrative records, from academic studies and industry sources. A review of all existing reports and most additional computer analyses of these data bases will be undertaken by staff. Staff will design and standardize the field research and synthesize the results for incorporation into the report to Congress.

Therefore, while Commission staff will not be conducting actual case study interviews, they will be closely involved in the process, from determining what studies would be most useful to administering the research contracts and incorporating the results into the report to Congress.

Q. How will the Commission assure that these case studies provided by outside sources are objective and unbiased?

A. We will utilize a modified competitive process to identify potential vendors, solicit proposals, and award research contracts. We plan to seek interest among vendors of known ability and to solicit proposals through research institutions and Federal research activities. We have established an advisory committee of five outstanding and disinterested research scholars which will review all the applications for funding.

Potential vendors will be asked to submit a proposed research plan to meet specified requirements. All the contractors will be required to answer the same questions, which will be standardized by the research staff, in each of the crop regions under study. The proposals will be judged on the applicant's demonstrated knowledge of the subject, the quality of their past work, and our judgement of their ability to deliver a high-quality product on time and within the cost limitations. Freedom from bias and absolute objectivity will, of course, be cardinal requirements in the studies; the Commission will hold vendors to the highest standards of integrity. To assure that bias does not inadvertently creep into the data, Commission staff will carefully monitor vendor performance as the work is being carried out.

Publication of Report

Q. Does this budget request include funds for the printing and distribution of your final report?

A. The Administration request includes only funds required for printing services preliminary to printing the report to Congress. This would provide minimal editing and typesetting of research reports and hearings testimony. Printing of the report by GPO must begin no later than September 1991 in order to assure delivery of the report by November 6. However, under the Administration's budget proposal, the Commission could not authorize printing to begin until October 1991 and then, only if sufficient funds were made available in FY 1992.

Q. Will interested outside parties have the opportunity to comment on this report in its draft form prior to the final submission to Congress?

A. Interested parties will be provided full opportunity for input during the fact finding phases of the Commission's work. Additionally, research reports and perhaps other related data will be shared with experts in the field as an integral part of our quality control to assure the integrity of the research effort. We will be, however, on an extremely tight time schedule for the compilation of data and drafting and submission of a timely report to Congress. As a consequence, circulation of the draft report will be held to Commissioners only. In this way, we hope to have a completed report for presentation to Congress by November 6, 1991.

WEDNESDAY, MARCH 21, 1990.

UNITED STATES COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

WITNESS

ISRAEL RUBIN, COMMISSIONER

Mr. SMITH. This afternoon we will hear testimony regarding the Commission for the Preservation of America's Heritage Abroad. The request for fiscal year 1991 is $200,000, which is identical to the amount appropriated in fiscal year 1990.

We will insert the budget justifications submitted in support of this request into the record at this point.

[The information follows:]

UNITED STATES COMMISSION
FOR
THE PRESERVATION OF
AMERICA'S HERITAGE ABROAD

FY 1991 BUDGET
CONGRESSIONAL PRESENTATION

I. SUMMARY OF COMMISSION'S ACTIVITIES

The Commission for the Preservation of America's Heritage Abroad was authorized in 1985 (P.L. 99-83 Section 1303). Because the fabric of a society is strengthened by visible reminders of the historical roots of the society, it is in the national interest of the United States to encourage the preservation and protection of the cemeteries, monuments and historic buildings associated with the foreign heritage of United States citizens. The primary need for the legislation arose from the genocide of the Jewish people in Europe.

The Commission consists of 21 members (see Appendix A) appointed by the President. Seven members are recommended by the Speaker of the House of Representatives and seven by the President pro tempore of the Senate. Members of the Commission receive no salary for their service on the Commission.

A primary goal of the Commission is to be independent of Federal funding. It is authorized by its statute "to accept, use and dispose of gifts or donations of money or property."

FY 1991 BUDGET JUSTIFICATION

The purpose of the FY 1991 Budget and the goals of the Commission are as follows:

1. In FY 1990 the Commission plans to complete the drafting of a prototype agreement which will provide that the East European nations will declare designated cemeteries, monuments and buildings as national historic trusts and may not be demolished. This draft agreement will be coordinated with the State Department with the goal of negotiating agreements in FY 1991.

2. To continue to identify and publish a list of those cemeteries, monuments and buildings in Eastern and Central Europe, particularly those which are in danger of deterioration or destruction.

3. To prepare and disseminate reports on the condition of the progress toward preserving and protecting such cemeteries, monuments and historic buildings.

4. To establish a mechanism to raise funds from the private sector which will be used to renovate and maintain the cemeteries, monuments, and historic buildings. For example, a Commission member has identified cemeteries in Hungary where the surrounding fences no longer exist, monuments have been vandalized and the area is an eyesore. The local government is preparing to demolish the cemetery. The Commission will negotiate with the local government to preserve the cemetery as a historic monument and to renovate and maintain it.

5. To formulate a program to enhance private and nonprofit organizations to "adopt" buildings, monuments and cemeteries abroad.

II. SUMMARY OF 1991 BUDGET REQUEST

In FY 1991 the $200,000 will be used for basic management functions including expenses of an executive director, rent, utilities and supplies. Funds will also be used for legal services, both in the United States and in host countries, to assist in the negotiations with foreign governments. Consultants will be retained to conduct a survey and develop a comprehensive inventory of monuments, cemeteries and historic buildings in Eastern Europe.

The primary function of the members of the Commission will be to raise money in order to establish an endowment fund. This endowment fund will make the Commission independent of Federal funding, and be used to protect and preserve cemeteries, monuments and historic buildings associated with the foreign heritage of United States citizens. Although neither the chairman nor members of this Commission are paid salaries, funds will be expended for travel and per diem allowances. Funding will also be used for consultants to assist in establishing the endowment fund.

FY 1991 Budget Request, Summary
(Dollars in Thousands)

	FY 1990 est.	FY 1991 Request
Object Classification:		
Travel	30	32
Rent	38	42
Personnel	67	80
Utilities and Printing	19	21
Supplies and Equipment	12	5
Other	34	20
TOTALS	200	200

APPROPRIATIONS LANGUAGE IN 1991 BUDGET REQUEST

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For [necessary start-up costs] *expenses* for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303. *(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990; additional authorizing legislation to be proposed.)*

Program and Financing (in thousands of dollars)

Identification code 95-3700-0-1-153	1989 actual	1990 est.	1991 est.
Program by activities			
10.00 Total obligations (object class 21.0)	....	200	200
Financing			
40.00 Budget authority (appropriation)	....	200	200
Relation of obligations to outlays:			
71.00 Obligations incurred, net	....	200	200
90.00 Outlays	....	200	200

The purpose of the Commission is to encourage the preservation of cemeteries, monuments, and historic buildings associated with the foreign heritage of the United States. It is anticipated that expenses after fiscal year 1991 will be financed exclusively from gifts and contributions to the Commission.

APPENDIX A

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

Julius Berman (Senator Byrd) 68-42 110th Street Forest Hills, NY 11375	Kaye, Scholer, Fierman, Hays & Handler 425 Park Avenue New York, NY 10022
Arthur L. Berney 67 Winthrop Road Brookline, MA 02146	Professor, Boston College Law School 885 Centre Street Newton, MA 02159
Chaskel Besser (Senator Byrd) 118 Riverside Drive New York, NY 10024	Rabbi, Congregation B'nai Israel 118 Riverside Drive New York, NY 10024
Dalia Bobelis (Presidential) 4925 60th Avenue South St. Petersburg, FL 33715	
Abraham Friedlander (Congressman Michael) 1527 47th Street Brooklyn, NY 11219	Editor, Boro Park Voice 4616 13th Avenue Brooklyn, NY 11219
Edgar Gluck (Congressman Michael) 907 56th Street Brooklyn, NY 11219	Special Assistant to Superintendent for Community Affairs NY State Police 2 World Trade Center, Rm. 5802 New York, NY 10047
Levi Goldberger (Senator Byrd) 1430 43rd Street, Apt. 2A Brooklyn, NY 11219	Field Underwriter Mutual of New York 1 Harmon Place Secaucus, NJ 07094
Leslie Keller (Congressman O'Neill) 111-20 73rd Avenue Forest Hills, NY 11375	President, Kelso, Inc. 97-45 Queens Boulevard Rego Park, NY 11374
Zvi Kestenbaum (Presidential) 19 Keap Street Brooklyn, NY 11211	Executive Director Opportunity Development Association (ODA) 12 Heyward Street Brooklyn, NY 11211
Lawrence J. Majewski (Congressman O'Neill) 123 Sheafe Road Wappingers Falls, NY 12590	Professor of Conservation Emeritus Institute of Fine Arts New York University New York, NY 10021
Morgan Mason (Presidential) 2170 Century Park East, #312 Los Angeles, CA 90067	President, The Masan Organization 1900 Ave. of the Stars, #2270 Los Angeles, CA 90067

Mary Lou O'Brien (Presidential)
Ponte-Vecchio, Apartment 306
1250 South Washington Street
Alexandria, VA 22314

Gerald Rosen
(Senator Thurmond)
300 Riverfront Park, #15K
Detroit, MI 48226

Miller, Canfield, Paddock & Stone
2500 Commercial Building
Detroit, MI 48226

Israel Rubin
(Congressman Michael)
10709 Great Arbor Drive
Potomac, MD 20854

Economist/Financial Planning
10706 Great Arbor Drive
Potomac, MD 20854

Asher J. Scharf
(Senator O'Neill)
1421 52nd Street
Brooklyn, NY 11219

President
33rd Street Development Corp.
(same as home)

Morris Schmidman
(Senator Dole)
82-15 Abingdon Road
Kew Gardens, NY 11415

Executive Director
Council of Jewish Organizations
of Boro Park
4616 13th Avenue
Brooklyn, NY 11219

Edward Howell Sims
(Senator Thurmond)
438 Partridge Circle
Sarasota, FL 33577

Publisher/Author
Editor's Copy Syndicate
Post Office Box 532
Orangeburg, SC 29115

Norman H. Stahl
(Senator Dole)
11 Glen Road
Bedford, NH 03102

Senior Officer
Devine, Millimet, Stahl & Branch
111 Amherst Street
Manchester, NH 03105

Judy Baar Topinka (Presidential)
353 Des Plaines Road
Riverside, IL 60546

Illinois State Senator
8609 West 22nd Street
North Riverside, IL 60546

Mr. SMITH. Testifying on behalf of the Commission today is Commissioner Israel Rubin. We welcome you, Mr. Rubin, and you may now proceed with your statement.

GENERAL STATEMENT

Mr. RUBIN. Mr. Chairman, I am a member of the Commission and responsible for its present program.

Paul Freedenberg, who is with us, will be designated as the Commission's chairman in the very near future.

I would like to thank you for the opportunity to be here and to discuss our 1991 budget request.

As you know, the Commission received its first funding in 1990. And I reviewed the overall strategy and the goals with Paul Freedenberg, who is in agreement with the program. I would like to share with you our progress. We are very pleased to report that the Commission is well ahead of schedule.

The Commission has already prepared a prototype agreement with foreign governments which provides that appropriate steps will be taken to protect and to preserve the cultural heritage of all national religious or ethnic groups that reside, or resided, in its territory and were victims of genocide or other crimes against humanity during the Second World War.

A list of properties designated by name will be annexed to the agreement. Also included is a Joint Cultural Heritage Commission, which will be established to oversee operations and will be an integral part of the agreement.

We presented a draft agreement to officials in Poland and Hungary. And I am very happy to report that, in both instances, the reception of the United States draft agreement was excellent, and the coordination process has started. Once they depart, the official told us that the timing of the proposed cultural agreement was in the very best interests of the United States and each of the two countries is in it.

I believe that we should have a signed agreement with at least two European nations by the end of the year. Czechoslovakia is the third nation that we plan to present our draft agreement to.

I am providing the Committee with a copy of the proposed draft agreement and the survey. The agreement was prepared by Professor Bernard Oxman, who is an Associate Dean at the University of Miami School of Law, and a consultant to the State Department.

I am also confident that in 1991 we will have sufficient data to publish a comprehensive list of cemeteries, monuments and buildings.

This concludes my statement. I am prepared for any questions.

[Additional information and the prepared statement of Mr. Rubin follow:]

Preliminary DRAFT with endnotes 2/20/90

UNITED STATES COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

Contact person: Israel Rubin
10709 Great Arbor Drive, Potomac, MD 20854 U.S.A.
Telephone: (301) 840-0700

The Government of the United States of America and the Government of Hungary.

Recalling their obligations under the Charter of the United Nations, and in particular articles 55 and 56 thereof,

Desiring to ensure respect for fundamental human rights, and in particular to promote understanding, tolerance and friendship among all nations, racial or religious groups[1] and to enhance the protection of cultural rights and provide access to the treasures of national and world culture without discrimination,[2]

Convinced that each culture has a dignity and a value which must be respected and preserved, and that all cultures form part of the common heritage belonging to all mankind,[3]

Considering that deterioration or disappearance of any item of the cultural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world,[4]

Reaffirming their condemnation of genocide and other crimes against humanity and determined to take steps to frustrate the objectives of those who sought to eradicate the culture and heritage of the victims of those crimes,

Seeking to honor the memories of those victims and to promote knowledge of and respect for their culture and heritage,

Considering that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close cooperation,[5]

Desirous of elaborating concrete steps in furtherance of the principles and purposes of the 1972 Convention for the Protection of the World Cultural and Natural Heritage,[6]

Have agreed as follows:

1. Each Party will take appropriate steps to protect and preserve the cultural heritage of all national, religious or ethnic groups that reside or resided in its territory and were the victims of genocide or other crimes against humanity during the Second World War.

2. Each Party will ensure that there is no discrimination, in form or in fact against the cultural heritage of any group referred to in paragraph 1 or against the nationals of the other Party in the scope and application of its laws and regulations concerning:

(a) the protection and preservation of cultural heritage, including places of worship, religious literature and artifacts, sites of historical significance, and cemeteries and memorials to the dead;

(b) the right to contribute to the protection and preservation of their cultural heritage; and

(c) public access thereto.

3. In cases where the group concerned is unable, on its own, to ensure adequate protection and preservation of its cultural heritage because of the effects of the crimes referred to in paragraph 1, each Party shall take special steps to ensure such protection and preservation within its territory and shall invite the cooperation of the other Party and its nationals where assistance is required for this purpose.

4. Properties referred to in paragraph 2 that are of special significance shall be designated in the list of properties annexed to this Agreement, publicly announced and communicated to local jurisdictions. All properties so designated shall be protected, preserved, and marked with a special plaque. Public access thereto shall be assured.

5. The list of properties forms an integral part of this Agreement. The Commission referred to in paragraph 6 may designate properties for inclusion in the list at any time.

6. A Joint Cultural Heritage Commission is hereby established to oversee the operation of this Agreement. Each Party shall appoint one member of the Commission, who may be assisted by alternates and advisors. Decisions of the Commission shall require the assent of both members. The Parties shall cooperate in supplying the Commission with access to properties and information necessary for the execution of its responsibilities.

7. Nothing in this Agreement shall be construed to relieve either Party of its obligations under the 1972 Convention for the Protection of the World Cultural and Natural Heritage or any other treaty for the protection of cultural heritage.

8. This Agreement shall enter into force upon signature.

9. Disputes concerning the interpretation or application of this Agreement shall be submitted to the Commission referred to in paragraph 6.

10. Either Party may withdraw from this Agreement upon one year's notice to the other Party.

DONE this ____________ day of ________________, in duplicate, in the English and Hungarian languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA.	FOR THE GOVERNMENT OF HUNGARY.

ENDNOTES

[1] Universal Declaration of Human Rights, art. 26(2), U.N. Gen. Ass. Res. 217 (III) (1948)

[2] Recommendation on Participation by the People at Large in Cultural Live and Their Contribution to It, 19 UNESCO Gen. Conf. Rec., UNESCO Doc. 19C/Resolutions, Annex I, at 29 (1977).

[3] Declaration of Principles of International Cultural Cooperation, adopted Nov. 4, 1966, 14 UNESCO Gen. Conf. Rec., UNESCO Dec. 14C/Resolutions, at 86 (1967)

[4] Convention for the Protection of the World Cultural and Natural Heritage, Paris, Nov. 23, 1972, 27 UST 37, TIAS No. 8226 (preamble). The Convention has over 100 parties, including Bulgaria (with reservation), German Democratic Republic, Federal Republic of Germany, Hungary, Poland, USSR (including separate ratifications by Byelorussian and Ukrainian SSRs), USA, Yugoslavia.

[5] Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, Paris, Nov. 14, 1970, 823 UNTS 231 (preamble). States parties include Bulgaria, Czechoslovakia, German Dem. Rep., Hungary, Poland, USSR (with declaration), USA (with reservation and understandings), Yugoslavia.

[6] Convention for the Protection of the World Cultural and Natural Heritage, note 4 supra.

DRAFT

For discussion with officials from Hungary
Contact person: Israel Rubin
10789 Great Arbor Drive, Potomac, MD 20854 U.S.A.
Telephone: (301) 840-0700

UNITED STATES COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

Established by the United States Congress and signed into law by President Reagan in 1987.

JOINT HUNGARIAN AND UNITED STATES SURVEY OF MONUMENTS, CEMETERIES AND BUILDINGS, AND ARCHIVAL DOCUMENTS.

In order to carry out the mandate of the United States government, the United States Commission for the Preservation of America's Heritage Abroad solicits the assistance of the Hungarian government to accomplish this survey of Jewish cemeteries, monuments, synagogue buildings, and archival material (official documents, genealogical records, or historical documents) in all Hungarian cities, towns and villages where Jewish communities existed before World War II and currently exist.

The primary goal of the Commission is to assist in the preservation and maintenance of all remaining Jewish cemeteries and monuments, and to meet religious criteria if reconstruction is required. In the case of synagogue buildings, selection for preservation will be made on the basis of historical and archival material. The Commission will assist in making Jewish archival material available to scholars. A significant economic by-product of the work of the Commission will be to encourage tourism in Hungary.

INSTRUCTIONS

A separate survey form should be used for each cemetery, monument, synagogue and set of archival material.

All questions refer to either a specific cemetery, monument, synagogue building or set of archival material.

1. **What is the name and title of the person preparing the survey?**

(name)____________________ (title)________________

2. **What is his (or her) complete address?**

(street)____________________ (town)________________

3. **What is the phone number?**

____

4. Did your political jurisdiction previously contain any Jewish

( ) CEMETERIES? How many?_____
( ) MONUMENTS? How many?_____
( ) SYNAGOGUE BUILDINGS? How many?_____

Please provide for each item checked above, the following information:

(circle one) CEMETERY / MONUMENT / SYNAGOGUE BUILDING

date of destruction:____

name and location before it was destroyed:__________________________

why was it destroyed? road project? better land use?__________________

Please provide for each item checked above, the following information:

(circle one) CEMETERY / MONUMENT / SYNAGOGUE BUILDING

date of destruction:

name and location before it was destroyed:

why was it destroyed? road project? better land use?

(circle one) CEMETERY / MONUMENT / SYNAGOGUE BUILDING

date of destruction:

name and location before it was destroyed:

why was it destroyed? road project? better land use?

(add more pages to continue, if necessary)

5. Does your political jurisdiction currently contain any existing Jewish (check as many as necessary)

( ) CEMETERIES? How many? _____
( ) MONUMENTS? How many? _____
( ) SYNAGOGUE BUILDINGS? How many? _____

6. Please provide for each item checked above and information requested in the following tables.

Results of this survey should be sent to :

Israel Rubin, Commissioner
United States Commission for the Preservation of American Heritage Abroad.
10709 Great Arbor Drive
Potomac, Maryland 20854 U.S.A.
Phone number: 301-840-0700

UNITED STATES COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

STATEMENT OF

ISRAEL RUBIN

COMMISSIONER

before

THE HOUSE SUBCOMMITTEE ON APPROPRIATIONS

for

COMMERCE, JUSTICE, STATE, AND THE JUDICIARY AND RELATED AGENCIES

March 21, 1990

UNITED STATES COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

Mr. Chairman:

My name is Israel Rubin. I am a member of the Commission for the Preservation of America's Heritage Abroad, and am responsible for its present program. Paul Freedenberg will be designated as the Commission's Chairman in the very near future. Thank you for the opportunity to appear before this Subcommittee to discuss our FY 1991 budget requests.

As you know, the Commission for the Preservation of America's Heritage Abroad received its first funding in FY 1990. I have reviewed the overall strategy and goals with Paul Freedenberg who is in agreement with the program. I wish to share with you our progress. We are very pleased to report that the Commission is well ahead of schedule.

The Commission has already prepared a prototype Agreement with foreign governments which provides that "appropriate steps will be taken to protect and preserve the cultural heritage of all national, religious or ethnic groups that reside or resided in its territory and were the victims of genocide or other crimes against humanity during the Second World War." A list of properties designated by name will be annexed to the Agreement. Also included is a Joint Cultural Heritage Commission established to oversee operations and be an integral part of the Agreement.

We presented the draft Agreement to government officials in Poland and Hungary. I am happy to report that in both instances the reception to the United States Draft Agreement was excellent and the coordination process has been started. One State Department Official told us that the timing of the proposed Cultural Agreement was in the best interests of the United States in each of the two countries visited. I believe that we should have a signed Agreement with two (2) East European nations by the end of FY 1990. Czechoslovakia is the next nation we plan to present with our draft Agreement.

I am providing the Committee with a copy of the proposed draft Agreement and Survey. The proposed Agreement was prepared by Professor Bernard Oxman, Associate Dean of the University of Miami Law School and Consultant to the State Department.

I am confident that in FY 1991 we will have sufficient data to publish a comprehensive list of cemeteries, monuments and historic buildings for most of Eastern and Central Europe.

This concludes my statement. I would be pleased to respond to any questions from the Chairman or Subcommittee members.

EFFECT OF CHANGES IN EASTERN EUROPEAN COUNTRIES

Mr. **Smith**. What about all the changes that have taken place? How does this affect your operation?

Mr. **Rubin**. Very, very profitably because now we are dealing with democratic governments who have a completely different perspective and we will deal with commerce machines.

Mr. **Smith**. I guess the question is, is it necessary for you to continue if as much change has taken place as we've been told?

Mr. **Rubin**. Well, I think that we do need to continue. We had discussions in the two countries. And they feel that if we had that kind of agreement between the United States as a government, and Poland or Hungary, that this would set up a mechanism and their country——

Mr. **Smith**. Do you think without this mechanism that they would not preserve these cemeteries and other monuments?

Mr. **Rubin**. That's correct. I don't think it would happen.

PRIVATE SECTOR FINANCING

Mr. **Smith**. How about private sector financing?

Mr. **Rubin**. Well, one of the goals of the Commission is to go out to the private sector and raise money to do all of the renovation and make changes that will be necessary.

Mr. **Smith**. Do you have any indication as to how successful that will probably be?

Mr. **Rubin**. No, we have not started on that aspect yet.

Mr. **Smith**. There is a great reservoir in the United States of people who would be interested in each one of those areas.

Mr. **Rubin**. Yes, there are. When we were in Hungary recently, we found that about a half a dozen individuals had put up $25,000 to $45,000 of money that they collected to put fences and gates around these cemeteries, most of which had been vandalized because there's nothing to protect them.

And there will be a placque stating that this is now under the protection of the government.

PROTECTION OF CEMETERIES

Mr. **Smith**. Of the Hungarian Government?

Mr. **Rubin**. Yes, sir.

Mr. **Smith**. What steps did the Hungarian Government take?

Mr. **Rubin**. Well, the Hungarian Government now is matching monies with individuals who want to protect individual cemeteries. They don't have an across-the-board program, but where individuals have come with Commission members and said we want to build a fence and a gate, they have removed the tax, which they normally have on construction, and the government has found the wherewithal to put up half of the money.

Mr. **Smith**. And do they prosecute vandals in those cases?

Mr. **Rubin**. Well, you know, out in the countryside when you get toward the Russian border, it is very difficult.

AUTHORIZING LEGISLATION

Mr. **Smith**. What's the additional authorizing legislation that—you indicated that you need some additional authorization.

Mr. **Rubin**. No, no. I think that the present legislation setting up the Commission is sufficient.

Mr. **Smith**. Sufficient?

Mr. **Rubin**. Yes. sir.

Mr. **Smith**. And the $200,000 request is sufficient?

Mr. **Rubin**. I believe it is. Based on my experience to date.

Mr. **Smith**. And we've gotten details, as to how that would be spent.

Thank you for testifying here today. We will have other questions for the record.

Mr. **Rubin**. Thank you very much.

[The following questions were submitted to be answered for the record:]

Questions for the Record Submitted by Chairman Smith

Commission Staffing

Question: Your budget justification indicates that the Commission plans to have an executive director on board in 1991. Has any effort been made to begin recruiting for this position in the current fiscal year?

Answer: At the present time we do not have plans to hire an executive director. The Commission members and volunteers should be able to do the job. Program priorities have taken precedence over administration.

Question: Do you plan to hire any other staff--administrative, legal, etc. -- for the Commission? If so, please provide a staffing plan for the record.

Answer: We believe we will need to hire consultants to draft documents and do translations, and to raise money for the non-profit foundation we will be setting up. The consultancy should cost approximately $60,000. We will also need secretarial help. Two secretaries should cost $40,000 total. That adds up to $100,000. The remaining $100,000 should cover travel and expenses involved in negotiating agreements with Eastern European countries as well as travel to set up volunteer organizations to take over the cost of the operation so that the Commission can become self-financing by FY 1992. One of the goals of the Commission is to raise enough funds so that direct government appropriations will not be required after FY 1991.

Question: Is the Commission currently utilizing staff on loan from any other Federal agencies?

Answer: No. No other government agency is working with us.

Prototype Agreement

Question: Is the Commission designating particular sites as priorities for preservation, or will all sites be given equal consideration for negotiation?

Answer: All sites are given equal consideration.

Private Sector Funds

Question: Your budget justification emphasizes the goal of the Commission to be independent of Federal funding and rely instead on private donations for its continuing mission. How successful have you been to date in raising funds from the private sector?

Answer: We have not been successful to date, but we expect to see churches, synagogues, and private groups step forward this year, as we spread the word.

Question: Does this mean that this, your first appearance before us, may also be your last?

Answer: Yes, it may be our last if we are successful in private sector recruitment.

WEDNESDAY, MARCH 28, 1990.

LEGAL SERVICES CORPORATION

WITNESSES

TERRANCE J. WEAR, PRESIDENT
GEORGE WITTGRAF, CHAIRMAN OF THE BOARD
JOHN ERLENBORN, VICE CHAIRMAN OF THE BOARD

Mr. SMITH. This morning the Committee will consider FY 1991 budget request for the Legal Services Corporation. The request of the Corporation is $343,000,000. This amount is an increase of $26,475,000 above the $316,525,000 available for fiscal year 1990 after sequestration. The President's budget proposes an appropriation of $316,525,000 for FY 1991. We will insert the budget justification material at this point in the record.

[The justification follows:]

APPROPRIATION REQUEST
FOR
FISCAL YEAR 1991

Submitted to Congress

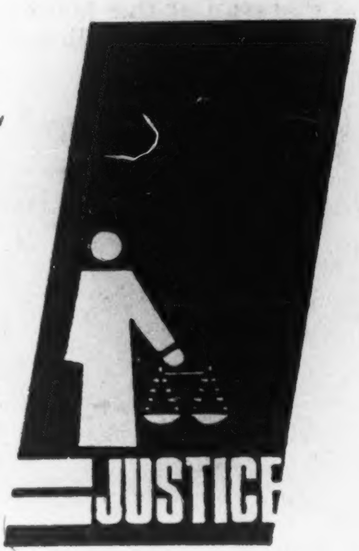
LEGAL

SERVICES

CORPORATION

400 Virginia Ave., S.W., Washington, D.C. 20024-2751

Non-Profit Organization



LEGAL SERVICES CORPORATION

APPROPRIATION REQUEST
FOR
FISCAL YEAR 1991

LEGAL SERVICES CORPORATION
APPROPRIATION REQUEST - FISCAL YEAR 1991

	FY 1990 REQUEST	FY 1990 APPROPRIATION LEVELS	FY 1990 SEQUESTER LEVELS	FY 1991 REQUEST
I. DELIVERY OF LEGAL ASSISTANCE	$283,169,000	$294,541,000	$290,434,861	$313,393,000
A. FIELD PROGRAMS	282,069,000	292,357,000	288,281,307	311,073,000
1. Basic Field Programs	275,047,000	274,965,000	271,131,766	292,097,000
2. Native American Programs and Components	7,022,000	7,304,000	7,202,176	7,759,000
3. Migrant Programs and Components	---	10,088,000	9,947,365	10,717,000
4. Special Emergency Funds	---	---	---	500,000
B. SUPPLEMENTAL SERVICE PROVISION	1,100,000	2,184,000	2,153,554	2,320,000
1. Law School Clinics	1,100,000	1,144,000	1,128,052	1,215,000
2. Supplemental Field Programs	---	1,040,000	1,025,502	1,105,000
II. SUPPORT FOR THE DELIVERY OF LEGAL ASSISTANCE	---	17,756,000	17,508,466	18,861,000
A. TRAINING AND TECHNICAL ASSISTANCE	---	649,000	639,952	689,000
1. Regional Training Centers	---	649,000	639,952	689,000
B. OTHER SUPPORT	---	17,107,000	16,868,514	18,172,000
1. National Support	---	7,518,000	7,413,193	7,986,000
2. State Support	---	8,158,000	8,044,271	8,666,000
3. Clearinghouse	---	900,000	887,453	956,000
4. CALR Grants	---	531,000	523,597	564,000
III. CORPORATION MANAGEMENT & GRANT ADMINISTRATION	12,145,000	8,703,000	8,581,673	10,746,000
A. MANAGEMENT & ADMINISTRATION	10,250,000	8,703,000	8,581,673	10,146,000
B. COMPETITION & BOARD INITIATIVES	1,745,000	---	---	500,000
C. SPECIAL CONTINGENCY FUNDS	---	---	---	100,000
D. TRAINING DEVELOPMENT & TECH ASSISTANCE	150,000	---	---	---
TOTAL	$295,314,000	$321,000,000	$316,525,000	$343,000,000

LEGAL SERVICES CORPORATION

APPROPRIATION REQUEST FOR FISCAL YEAR 1991

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I. INTRODUCTION AND SUMMARY

The Legal Services Corporation requests an appropriation of $343,000,000 for fiscal year 1991 to support the Corporation's mission of providing legal services for individual poor persons who cannot otherwise afford legal assistance.

The Corporation's request for appropriations includes $313,393,000 for the direct delivery of legal assistance to poor individuals. This budget category includes funds for basic field programs, Native American programs and components, migrant programs and components, law school clinics, supplemental field programs, and a new budget subcategory, special emergency funds for disaster relief.

Funds in the amount of $292,097,000 have been requested for the basic field programs. This figure represents a 6.2% increase over the amount appropriated for FY 1990 and a 7.9% increase over the amount remaining after sequester.1/ In addition, the Corporation's Board of Directors is requesting $7,759,000 in funding for the Native American programs and components and

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1/ The Corporation's FY 1990 appropriation of $321,000,000 was subject to a sequestration of approximately 1.4%, or $4,475,000, the percentage specified in the Presidential Order under the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, (Public Law 100-119), the Gramm-Rudman-Hollings deficit reduction statute. The Corporation's actual FY 1990 appropriation, after sequester, was $316,525,000. Discussion of FY 1990 appropriations in this document describe the levels under the Gramm-Rudman sequestration.

$10,717,000 for migrant programs and components. These requests also represent increases over the amount of funds appropriated by Congress for these programs for FY 1990. The Board is also including, for the first time, a budget subcategory entitled special emergency funds, to assist legal services programs that suffer extraordinary damage from natural disasters, such as earthquakes or hurricanes.

Also included in the direct delivery budget category are two additional subcategories: law school clinics and supplemental field programs. The Corporation proposes to increase funding for each of these two subcategories by 7.7 percent over Fiscal Year 1990 spending. Consequently, $1,215,000 is requested for law school clinics and $1,105,000 is requested for supplemental field programs.

The Corporation also requests $689,000 for training and technical assistance. This figure represents a 7.7 percent increase over Fiscal Year 1990 spending for training and technical assistance. These funds will support the activities of LSC's regional training centers.

An amount of $18,172,000 is requested for program support, an increase of 7.7 percent over the Fiscal Year 1990 funding for this purpose. This includes funding for national support centers, state support centers, computer assisted legal research (CALR), and the legal services Clearinghouse.

The Corporation also requests $10,746,000 for corporation management and grant administration. The funds in this category represent approximately 3.1 percent of the total appropriation request. This amount includes $10,146,000 for corporation management and administration, $500,000 for competitive bidding and board initiatives, and $100,000 for a special contingency fund.

The amount requested for Corporation management and administration is $10,146,000. This figure is a realistic assessment of the annual cost of administering the legal services program. The Corporation's yearly expenses have averaged approximately $10,700,000 for several years; Congress has appropriated less than this amount in the past because of the Corporation's ability to carry over unused funds to help the Corporation meet expenses. The Corporation assumes that a carry over of approximately $854,000 will be available to defray management and administration expenses in FY 1991.

In line with the Congressional imperative to develop a system for the competitive award of all grants and contracts and to implement the system after the Senate's confirmation of the Corporation's new Board of Directors, the Corporation requests

$500,000 to develop and implement a competitive bidding system, including funds for the development and dissemination of requests for bid proposals. The Corporation will also use a portion of these funds to educate prospective providers of legal services and their communities about the availability of Federal funds to pay for the provision of legal services to poor individuals and to make the actual awards of funds to successful competitors.

Also included in this category is funding for other Corporation initiatives or pilot projects to study ways of expanding or improving the delivery of legal services. In the past, the pilot projects and programs developed by the Board have helped to fuel a large expansion in alternative sources of legal services for the indigent. Interest on Lawyers' Trust Account (IOLTA) programs, increased pro bono efforts, and law school clinics are a few examples. The Corporation plans to continue its efforts to work in partnership with other public and private providers to expand access to legal services.

In addition, the Corporation has set aside $100,000 for a special contingency fund. The Corporation expects to use this fund to cover any costs that its new Board of Directors has not yet anticipated.

A. HISTORY OF THE LEGAL SERVICES CORPORATION

The Legal Services Corporation was established by an Act of Congress in 1974 to "provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel." Section 1001(2) of the Legal Services Corporation Act of 1974, Public Law 93-355, 88 Stat. 378 (1974), as amended, 42 U.S.C. Section 2996 ("Act"). The Legal Services Corporation is the successor of the Office of Legal Services, which was created in 1965 as a part of the Office of Economic Opportunity to provide legal assistance to the poor. According to its organic statute, LSC was to be "free from the influence of or use by it of political pressure." Consequently, the Corporation was established as a private, non-membership, nonprofit corporation in the District of Columbia. The Act provided that the Corporation's Board of Directors be appointed by the President and confirmed by the Senate.

The Act was amended in 1977 to eliminate restrictions on recipients' representation of juveniles; require open meetings of the Corporation's Board of Directors and of State Advisory Councils; require recipients to set priorities for the types of cases to be handled by their programs; and provide for independent hearing examiners in proceedings for the denial or termination of funding. Public Law 95-222, 91 Stat. 1621 (1977).

The 1977 amendments also included provisions prohibiting political activity by the Corporation or its grantees. Legal services grantees were likewise prohibited from using LSC funds for legislative or administrative advocacy, except when necessary for the representation of an eligible client. The Corporation's last authorization for appropriations expired on September 30, 1980.

In response to continuing criticism that legal services grantees were pursuing a "law reform" agenda instead of assisting poor individuals with their legal problems, Congress added several restrictions on the use of LSC funds in successive appropriations acts. The Corporation's 1979 appropriations act included an amendment that prohibited publicity or propaganda designed to support or defeat State or Federal legislation. Public Law 95-431, 92 Stat. 1021 (1978). In subsequent appropriations measures, Congress placed additional restrictions on "grassroots" and other lobbying and on legislative advocacy carried out by the Corporation's grantees. See, e.g., Public Law 97-377, 96 Stat. 1874 (1982); Public Law 99-180, 99 Stat. 1162 (1985). Federal regulations implementing these provisions have also been promulgated. See 45 C.F.R. Part 1612.

Congress also placed restrictions on certain other activities undertaken by legal services programs. Congress's FY 1990 appropriations bill continued prohibitions on the use of LSC funds for the representation of illegal aliens, for abortion litigation, for support of and training for boycotts and strikes, and for political activities. Public Law 101-162, 103 Stat. 988. The Legal Services Corporation has promulgated regulations implementing the prohibitions on all activities restricted by Congress. See 45 C.F.R. Parts 1607, 1612, and 1626.

B. CORPORATE STRUCTURE

The Board of Directors of the Corporation is composed of eleven voting members and is appointed by the President of the United States with the advice and consent of the Senate. The members of the current Board of Directors received recess appointments from President George Bush and are currently awaiting nomination by the President and confirmation by the Senate. The Corporation's Board of Directors provides oversight and sets general policy for the Corporation. It likewise promulgates regulations that govern the activities of the Corporation and its grantees. See 45 C.F.R. Parts 1600-1631.

The Chairman of the Board is elected from among the Corporation's Board members. The Board is currently composed of eight members who are attorneys and three non-lawyer members, two of whom were selected from the population of eligible clients. The Board of Directors appoints the President of the Legal Services Corporation, who in turn directs the operations and personnel of the Corporation and, after consultation with the Board, appoints the Corporation's other officers.

C. GRANT-MAKING ACTIVITIES

The Legal Services Corporation is authorized by Congress to make grants and contracts to pay for the provision of legal assistance to clients who meet certain eligibility requirements. As part of these eligibility requirements, a maximum income level (which may not exceed one hundred twenty-five percent of the current official Federal Poverty Income Guideline) is set by each recipient. This income test is used to determine whether individual clients are eligible to receive legal services from the Corporation's grantees or contractors. See 45 C.F.R. Part 1611. In establishing eligibility for legal services within its respective service area, the grantee or contractor may consider other factors as well, including the cost of living in the area, the number of potential clients, i.e., the local poverty population, and the level and nature of legal services provided to the poor by the local bar.

The Legal Services Corporation currently makes 284 basic field grants to entities that in turn employ persons who provide legal assistance to indigent persons throughout the United States, Puerto Rico, the Virgin Islands, Guam, and Micronesia. In addition, thirty-two grantees receive special grants to employ persons to provide legal services to Native Americans. In FY 1990, forty-two programs also received funds to employ persons to provide legal services to migrant workers. Recipient programs are staffed by full-time and part-time attorneys, paralegals, and support personnel.

D. STRUCTURE AND ACTIVITIES OF LOCAL PROGRAMS

Legal services programs that receive LSC funds are governed by their own boards of directors. Sixty percent of the members of these boards of directors are required to be members of the bar of the State in which legal assistance is provided, while one-third of the local board members must be persons who are eligible to become legal services clients. Under the LSC Act, as amended in 1977, all basic field programs are required to establish priorities as to the kinds of cases they will handle; these priorities are based on the needs of the eligible clients in their communities. These programs also must determine the most effective means of delivering legal assistance to their clients.

Many legal services programs supplement the legal services they provide by soliciting the services of private attorneys who provide legal assistance pro bono or on a reduced-fee basis. The Corporation requires that each basic field legal services program spend at least twelve and one-half percent of its annual LSC grant to encourage participation by private attorneys in the provision of legal assistance to poor individuals. This set-aside requirement helps programs bring clients' problems to the attention of the local bar and provides incentives for private sector involvement in the provision of legal services to poor individuals.

Each basic field program is encouraged to design its own private attorney involvement (PAI) program around the conditions and needs of the local community it serves. However, each basic field program's PAI model must receive the approval of the Corporation. Private attorney involvement with local legal services programs take the form of pro bono representation, reduced-fee judicare programs, contracts with private attorneys (to provide representation in large numbers of simple, routine cases), organized referral mechanisms, or cooperative support arrangements.

II. APPROPRIATIONS REQUEST IN BRIEF: DIRECT DELIVERY OF LEGAL ASSISTANCE

A. DELIVERY OF LEGAL ASSISTANCE

The Corporation has allocated 91 percent of the requested appropriation to fund direct delivery of legal services at the local level. To this end, $313,393,000 is earmarked to pay for the direct delivery of legal services by basic and supplemental field programs, Native American programs and components, Migrant programs and components, and law school clinics.

1. Basic Field Programs

The Legal services Corporation currently administers grants for 284 basic field grant recipients. These are the private, non-profit neighborhood law offices that provide direct legal assistance to eligible poor clients. The Corporation funds offices throughout the United States.

The Corporation proposes to allocate $292,097,000 for the basic field programs for fiscal year 1991. This amount represents an increase of $20,965,234 over the amount of funds available for this purpose in FY 1990.

2. Native American Programs and Components

The Delivery of Legal Assistance category also includes $7,759,000 for FY 1991 grants to programs that employ persons to provide legal services to Native Americans. The Corporation currently administers 32 grants for Native American programs and components. Native American programs and components specialize in the tribal law and customs particular to Native Americans in the United States. This amount ($7,759,000) represents an increase of $556,824 over the amount of funds available for the Native American programs in FY 1990.

3. Migrant Programs and Components

The Corporation has earmarked $10,717,000 exclusively for programs that employ persons to provide legal services to migrant farm workers. This is an increase of $769,635 over the amount of funds available for this purpose in FY 1990. There are currently 42 migrant programs and components that deliver specialized legal assistance to indigent migrant agricultural workers.

4. Special Emergency Funds

During calendar year 1989, the Corporation received several requests from legal services programs recovering from damage sustained during Hurricane Hugo and the California earthquake. The Corporation's ability to respond to these requests was limited, since virtually all of its funds had already been obligated. To address this problem in the future, the Corporation proposes setting aside $500,000 to hold in reserve for just such emergencies.

B. SUPPLEMENTAL SERVICE PROVISION

The Corporation also requests $2,320,000 to fund supplemental mechanisms for the direct delivery of legal services. This includes $1,215,000 for law school clinics (an increase of $86,948 over FY 1990) and $1,105,000 for supplemental field programs (an increase of $79,498 over FY 1990).

1. Law School Clinics

The law school clinic program began as a pilot program in 1987. These clinics educate students in substantive and procedural law, while providing a service to clients in their local communities. The law school clinics not only offer services with a high level of client satisfaction, but seventy-two percent of the students enrolled recently reported that their clinical experience had increased their willingness to provide *pro bono* legal assistance when they enter private practice.

The Legal Services Corporation has made grants to many successful law school clinic programs, including clinics at Notre Dame University, the University of Virginia, Southern Methodist University, Loyola University, Gonzaga University, the University of San Diego, the State University of New York at Buffalo, Indiana University, the University of North Dakota, and St. Mary's University of San Antonio.

2. Supplemental Field Programs

The Corporation requests $1,105,000 for supplemental field programs for Fiscal Year 1991. The supplemental field programs to be funded here include judicare projects, reduced-fee contracts for services, and other bar initiatives such as *pro bono* referrals. These mechanisms are additional means of providing direct legal assistance to individuals.

III. SUPPORT FOR THE DELIVERY OF LEGAL ASSISTANCE

A. TRAINING AND TECHNICAL ASSISTANCE

1. Regional Training Centers

The Corporation requests $689,000 in funding for regional training centers, which is an increase of $49,048 over the amount of funds available for this purpose in FY 1990. There are currently five regional training centers that arrange training sessions, produce training manuals and provide other training services for legal services programs and attorneys.

B. OTHER SUPPORT

1. National Support

The Corporation funds sixteen national support centers that specialize in various aspects of "poverty law" or in the problems of particular classes of individuals, such as migrant farm workers or the elderly. The centers produce publications and provide information relating to their respective areas. In addition, they lobby Congress and Federal agencies and monitor legislation and the adoption of regulations that are of interest to their constituencies. The support centers provide little actual representation of poor clients; most of the clients of support centers are legal services programs and other publicly or privately funded organizations. National support centers do, on rare occasions, represent individual clients, and periodically provide co-counsel to field programs. The Corporation is requesting $7,986,000 for national support centers in FY 1991. This figure represents an increase of $572,807 over the amount of funds available for national support centers in FY 1990.

2. State Support

Currently, the Corporation also makes sixty-seven state support grants, 61 of which are supplemental grants provided to existing basic field programs. The Corporation requests an appropriation of $8,666,000 to fund state support grants for FY 1991, an increase of $621,729 over the amount of funds available for these grants in FY 1990.

3. Clearinghouse

The Corporation requests $556,000 for the National Clearinghouse, which is an increase of $68,547 over the amount of funds available for this purpose in FY 1990. The Clearinghouse is a research center that makes legal briefs and other documents filed by legal services attorneys available to other attorneys. The Clearinghouse also publishes the Clearinghouse Review, a journal containing articles on poverty law issues.

4. Grants for Computer Assisted Legal Research

The Corporation requests $564,000 for computer assisted legal research (CALR) programs, which is an increase of $68,547 over the amount of funds available for this purpose in FY 1990. There are six computer assisted legal research programs that provide computer support services, such as Westlaw and Lexis retrievals, to legal services attorneys.

IV. CORPORATION MANAGEMENT AND GRANT ADMINISTRATION

The budget category for Corporation Management and Grant Administration includes funds for Management and Administration, Competition and Board Initiatives, and an amount set aside for Special Contingencies. The Corporation requests $10,746,000 for these purposes.

A. MANAGEMENT AND ADMINISTRATION

For fiscal year 1991, $10,146,000 has been allocated for Management and Administration. This amount reflects a realistic assessment of the annual cost of operating the Corporation. As the accompanying chart indicates, annual expenses of the Corporation have averaged approximately $10,700,000 for the last several years. Congress has appropriated less than this amount in years past because of the availability of funds carried over from prior years that have been used to help the Corporation meet operating expenses.

B. COMPETITIVE BIDDING AND BOARD INITIATIVES

In line with the Congressional imperative to develop a system for the competitive award of all grants and contracts, and to implement this system after the Senate's confirmation of the Corporation's Board of Directors, the Corporation requests

$500,000 to develop and implement a system for the competitive award of Legal Services grants and contracts, including funds for the development and dissemination of requests for bids. The Corporation will also use a portion of these funds to educate prospective providers of legal services and their communities about the availability of Federal funds to pay for the provision of legal services to poor individuals and to make the actual awards of funds to successful competitors.

1. Competitive Bidding

The institution of a system for the competitive award of grants and contracts will bring LSC into line with standard practices used by both private and governmental grant makers. Competition will open the delivery of legal services to a larger group of providers and will assist the Corporation in selecting the most efficient providers of legal services across geographic service areas. Competition will permit the Corporation to contract for more legal assistance in many areas without increasing current spending levels.

Competition for grants will also expand the base of service providers. Under the current system of "presumptive refunding," other potential providers of legal assistance have been shut out of the process, and opening it to them will help to ensure maximum efficiency and responsiveness to client needs.

Expanding the pool of actual and potential service providers in any one geographic area will have the natural effect of encouraging grantee adherence to contract terms and to the principles of managerial efficiency.

In developing its competitive bidding system, the Corporation plans to advertise thoroughly to ensure that a broad base of prospective providers and their communities learn of the availability of Federal grants to pay for the provision of legal services to poor persons. The Corporation will institute a system for the competitive selection of the provider of legal aid in each area to be served. The development of the review and evaluation process for grant applications may require additional personnel with experience in grant-making. The Corporation hopes, however, to make the shift to a competitive grant-making system without materially increasing the number of its employees.

The Corporation's competitive bidding process may consist of a system of multi-year grants under which no more than a third of the program areas would be subject to competition in any one year. After year three, all programs could be operating under the competitive system. Establishment of this staggered cycle would give Corporation staff more time to review the larger number of proposals expected per program area.

2. Other Board Initiatives

Also included in this budget category is funding for other initiatives that could be authorized by the Corporation's Board of Directors and undertaken to stimulate and expand the provision of legal services.

C. SPECIAL CONTINGENCY FUNDS

The third item under the Corporation Management and Grant Administration budget category is $100,000 that the Corporation's Board of Directors wishes to reserve for unanticipated contingencies and other non-routine expenses.

V. ADDITIONAL SOURCES OF FUNDING

This budget request takes into account the welcome fact that the Legal Services Corporation is no longer the sole funder of legal services for the poor.

Funding sources other than LSC have continued to play an increasingly important role in the provision of legal services to the poor. Non-LSC Federal, State, local, and private contributions to legal services programs have risen appreciably since 1982.

Funds from non-LSC sources, as a percentage of total program funding, are growing at an increasing rate. Total non-LSC funding grew from approximately $31 million in 1977 (the first year for which figures are available) to approximately $123 million in 1988, an increase of 397%. Annual LSC funding grew 244% during the same period.

A. NON-LSC FEDERAL FUNDING

In addition to the Federal dollars appropriated to pay for legal services through LSC, legal services programs receive funding under Title XX of the Social Security Act, under the Older Americans Act, under Federal Revenue Sharing, through Community Development Block Grants, and from various other Federal sources. These funds continue to play an important role in the provision of legal services.

B. STATE AND LOCAL FUNDING

Most States and many local governments and other organizations also make public funds available for legal services programs operating within their jurisdictions. The Corporation estimates that the legal services programs its supports received more than $24 million from State governments and approximately $10.5 million from local sources during calendar year 1989.

C. INTEREST ON LAWYERS' TRUST ACCOUNTS

Perhaps the most dynamic of all new sources of legal aid funds is Interest on Lawyers' Trust Accounts (IOLTA). Lawyers often hold clients' funds for short periods of time prior to disbursement. These funds are pooled and held in interest-bearing trust accounts; the interest earned on these monies, or IOLTA, is often used to support legal services programs for the poor.

IOLTA contributions have grown dramatically in the past few years. Conceived in 1981, the IOLTA programs had cumulatively generated $4,485,763 by 1983. The growth of IOLTA funding for legal services programs has been dramatic. IOLTA contributions to legal services programs for calendar year 1989 totaled approximately $32,232,000. Most states currently have IOLTA programs in operation.

As a result of the growth in the availability of non-LSC funds, the role of the Legal Services Corporation as the primary source of funding has changed. The Corporation has played an increasingly important role as a catalyst to stimulate and exploit these alternative sources of funding for the provision of legal assistance to the poor.

BUDGET IN BRIEF: TABLES

LEGAL SERVICES CORPORATION
BUDGET IN BRIEF -- FISCAL YEAR 1991

(dollars in thousands)

	1989 Budget		1990 Budget		1991 Estimate		Change from 1990 to 1991	
	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's
I. DELIVERY OF LEGAL ASSISTANCE	283,756		292,207		313,393		21,186	
Appropriation	283,169		290,435		313,393		22,958	
Funds Carried Forward from previous year	587		1,772		---		(1,772)	
A. FIELD PROGRAMS	281,303		289,706		311,073		21,367	
Appropriation	281,069		288,281		311,073		22,792	
Funds Carried Forward from previous year	234		1,425		---		(1,425)	
B. SUPPLEMENTAL SERVICE PROVISION	2,125		2,201		2,320		119	
Appropriation	2,100		2,154		2,320		166	
Funds Carried Forward from previous year	25		47		---		(47)	
C. PROGRAM DEVELOPMENT	328		300		---		(300)	
Appropriation	---		---		---		---	
Funds Carried Forward from previous year	328		300		---		(300)	

LEGAL SERVICES CORPORATION
BUDGET IN BRIEF -- FISCAL YEAR 1991

(dollars in thousands)

	1989 Budget		1990 Budget		1991 Estimate		Change from 1990 to 1991	
	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's
II. SUPPORT FOR THE DELIVERY OF LEGAL ASSISTANCE	17,261		17,725		18,861		1,136	
Appropriation	17,070		17,508		18,861		1,353	
Funds Carried Forward from previous year	91		217		---		(217)	
Allocation of current year Other Funds Available	100		---		---		---	
A. TRAINING AND TECHNICAL ASSISTANCE	637		691		689		(2)	
Appropriation	624		640		689		49	
Funds Carried Forward from previous year	13		51		---		(51)	
Allocation of current year Other Funds Available	100		---		---		---	
B. OTHER SUPPORT	16,524		17,034		18,172		1,138	
Appropriation	16,446		16,868		18,172		1,304	
Funds Carried Forward from previous year	78		166		---		(166)	

LEGAL SERVICES CORPORATION
BUDGET IN BRIEF -- FISCAL YEAR 1991

(dollars in thousands)

	1989 Budget		1990 Budget		1991 Estimate		Change from 1990 to 1991	
	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's
III. CORPORATION MANAGEMENT & GRANT ADMINISTRATION	10,981	153	10,661	146	11,600	151	939	5
Appropriation	8,316	153	8,582	146	10,746	151	2,164	5
Funds Carried Forward from previous year	1,780		2,079		854		(1,225)	
Allocation of current year Other Funds Available	885		---		---		---	
A. MANAGEMENT & ADMINISTRATION	10,850	153	10,564	146	11,000	151	436	5
Appropriation	8,316	153	8,582	146	10,146	151	1,564	5
Funds Carried Forward from previous year	1,780		1,982		854		(1,128)	
Allocation of current year Other Funds Available	754		---		---		---	
B. COMPETITION & BOARD INITIATIVES	---		---		500		500	
Appropriation	---		---		500		500	
Funds Carried Forward from previous year	---		---		---		---	

LEGAL SERVICES CORPORATION
BUDGET IN BRIEF -- FISCAL YEAR 1991

(dollars in thousands)

	1989 Budget		1990 Budget		1991 Estimate		Change from 1990 to 1991	
	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's
C. SPECIAL CONTINGENCY FUNDS	---		---		100		100	
Appropriation	---		---		100		100	
Funds Carried Forward from previous year	---		---		---		---	
C. MERITORIOUS GRANT AWARDS	131		97		---		(97)	
Appropriation	---		---		---		---	
Funds Carried Forward from previous year	---		97		---		(97)	
Allocation of current year Other Funds Available	131		---		---		---	
TOTAL -- REQUIREMENTS	311,998	153	320,593	146	343,854	151	23,261	5
Appropriation	308,555	153	316,525	146	343,000	151	26,475	5
Funds Carried Forward from previous year	2,458		4,068		854		(3,214)	
Allocation of current year Other Funds Available	985		---		---		---	

APPROPRIATION REQUEST

LEGAL SERVICES CORPORATION
APPROPRIATION REQUEST IN RELATION TO TOTAL FUNDS AVAILABLE
(dollars in thousands)

	POSN'S	AMOUNT
1. Total Funds Available in Fiscal Year 1990		
Appropriated funds carried forward from FY 1989		4,068
Appropriation, FY 1990		321,000
Less Gramm-Rudman-Hollings reduction		(4,475)
Total available in FY 1990		320,593
2. Request for Fiscal Year 1991 -- Summary of Changes		
Appropriation, FY 1990		321,000
Less Gramm-Rudman-Hollings reduction		(4,475)
FY 1990 Base		316,525
Adjustments to Base		
Restore Gramm-Rudman-Hollings reduction		4,475
Program Increase		22,000
Total appropriation requested for FY 1991		343,000
3. Total Funds Available in Fiscal Year 1991		
Requested Appropriation	151	343,000
Other non-federal sources		200
Appropriated funds carried forward from previous fiscal year (1990, estimate)		654
Total available in FY 1991	151	343,854

APPROPRIATION LANGUAGE

PUBLIC LAW 101-162—NOV. 21, 1989

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,000,000 of which $274,965,000 is for basic field programs, $7,304,000 is for Native American programs, $10,088,000 is for migrant programs, $1,144,000 is for law school clinics, $1,040,000 is for supplemental field programs, $649,000 is for regional training centers, $7,518,000 is for national support, $8,158,000 is for State support, $900,000 is for the Clearinghouse, $531,000 is for computer assisted legal research regional centers, and $8,703,000 is for Corporation management and administration.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $960,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000, to remain available until expended.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $18,000,000, of which $1,000,000 shall remain available until expended: *Provided*, That not to exceed $89,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $168,707,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions: *Provided*, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general fund of the Treasury. 15 USC 77f note.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Securities.
15 USC 18a note.

SEC. 605. Five working days after enactment of this Act and thereafter, the Federal Trade Commission shall assess and collect filing fees established at $20,000 which shall be paid by persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a) and the regulations promulgated thereunder. For purposes of said Act, no notification shall be considered filed until payment of the fee required by this section. Fees collected pursuant to this section shall be divided evenly between and credited to the appropriations, Federal Trade Commission, "Salaries and Expenses" and Department of Justice, "Salaries and Expenses, Antitrust Division": *Provided*, That fees in excess of $40,000,000 in fiscal year 1990 shall be deposited to the credit of the Treasury of the United States.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Wages. Government organization and employees.

SEC. 607. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Disadvantaged persons.

SEC. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

Grants. Contracts.

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census or 9 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1989, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $16.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further*, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a

particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

Comunications and telecommunications. State and local governments.

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further*, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further*, That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide

—legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Aliens.

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further*, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further*, That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further*, That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1990, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further*, That if a Presidential Order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: *Provided further*, That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further*, That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corpora-

Abortion.

Termination date.

Grants.
Contracts.
42 USC 2996f note.

tion or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1990 migrant funds as was used in fiscal year 1989: *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That none of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence; subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts: *Provided further,* That the Corporation shall insure that all grants and contracts made for calendar year 1990 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1989, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1990, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: *Provided further,* That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in operational effect on October 1, 1988: *Provided further*, That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: *Provided further*, That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1989, shall not become effective until after October 1, 1990, or until authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further*, That, notwithstanding any decision or action of the President of the Corporation after September 7, 1989, funds appropriated under this Act or any prior Acts shall not be denied, for the period October 1, 1989 through December 31, 1990, to any grantee or contractor which in fiscal year 1989 received funding appropriated under any prior Act, as a result of activities which have been found by an independent hearing officer appointed by the President of the Corporation prior to October 1, 1989, not to constitute grounds for a denial of refunding, and any decisions or action of the President of the Corporation reversing or setting aside such decision of an independent hearing officer concerning section 1010(c) of the Act rendered in fiscal year 1989 shall be null and void.

Sea turtles.
Conservation.
International agreements.
Fish and fishing.
Maritime affairs.
16 USC 1537 note.

SEC. 609. (a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than one year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

Manuel Noriega.

(4) Manuel Noriega's continued exercise of power in Panama has contributed to political unrest and international illegal drug trafficking in the hemisphere and the world, and that he should be removed from any position of power in Panama in order to reduce the drug flow and increase democracy;

(5) Public Law 100-690, the Anti-Drug Abuse Act of 1988, enacted on November 18, 1988, expressed the sense of the Congress that the President should convene as soon as possible an international conference on combating illegal drug production, trafficking, and use in the Western Hemisphere; and

(6) the national drug strategy announced by the President on September 5, 1989, states that "priority consideration should be given to convening at an early date a drug summit".

(b) It is the sense of the Congress that—

(1) the agenda of the international drug summit should include, among others, the subjects of interdiction, crop eradication, crop substitution, law enforcement, education and prevention, and the international sharing of intelligence;

(2) the President should consult with the leaders of participating countries at the international drug summit on ways to achieve international cooperation and coordination in support of measures directed at removing Manuel Noriega from any position of power in Panama; and

(3) in addition to or in the absence of an international drug summit, the United States should intensify unilateral and bilateral efforts as well as efforts in concert with international organizations and other multinational forums to assist the nations of the hemisphere in their battle against drugs and the drug traffickers, including measures directed at removing Manuel Noriega from any position of power in Panama.

Sec. 614. The funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended, at a rate of operations not exceeding the rate available for fiscal year 1989 or the rate provided in H.R. 2991 as passed the Senate, whichever is lower and under the authority and conditions in applicable appropriations Acts for fiscal year 1989, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 2991:

HOUSE REPORTS: No. 101-173 (Comm. on Appropriations), and No. 101-299 and No 101-332 (Comm. of Conference).
SENATE REPORTS: No. 101-144 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Aug. 1, considered and passed House.
  Sept. 29, considered and passed Senate, amended.
  Oct. 26, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and disagreed to Senate amendment No. 83.
  Oct. 31, Senate agreed to conference report; concurred in certain House amendments, in others with amendments; and receded from amendment No. 83.
  Nov. 1, Senate concurred in House amendment to Senate amendment No. 182. House disagreed to certain Senate amendments.
  Nov. 3, Senate insisted on its amendments.
  Nov. 7, House agreed to conference report.
  Nov. 8, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  Nov. 21, Presidential statement.

PROGRAM AND FINANCING

LEGAL SERVICES CORPORATION
PROGRAM AND FINANCING FOR FEDERAL APPROPRIATIONS
FISCAL YEARS 1989, 1990 and 1991

(dollars in thousands)

	1989 Actual	1990 Actual	1991 Estimate
Program by Activities			
1. Delivery of Legal Assistance	283,756	292,207	313,393
2. Suport for the Delivery of Legal Assistance	17,261	17,725	18,861
3. Management and Administration	10,981	10,661	11,600
Total program costs, funded	311,998	320,593	343,854
Change in Selected Resources			
Other non-federal sources	(184)	(132)	(200)
Appropriated funds from prior years	(3,259)	(3,936)	(654)
Total obligations (object class 41)	308,555	316,525	343,000
Financing:			
Budget Authority (appropriation)	308,555	316,525	343,000

	1989 Actual	1990 Actual	1991 Estimate
Relation of obligations to outlays:			
Obligations incurred, net	308,555	316,525	343,000
Obligated balance, start of year	28,944	54,763	53,000
Obligated balance, end of year	(54,763)	(53,000)	(57,000)
Outlays	282,736	318,288	339,000

ACTIVITIES IN BRIEF - FISCAL YEAR 1988

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
I. DELIVERY OF LEGAL ASSISTANCE				
Total	292,207	290,435	313,393	22,958
Appropriation	290,435	290,435	313,393	22,958
Funds Carried Forward from Previous Year	1,772	---	---	---

DELIVERY OF LEGAL ASSISTANCE

The Delivery of Legal Assistance category is comprised of funding for (A) Field Programs, which includes funding allocated for Basic Field Programs, Native American Programs and Components, Migrant Programs and Components, and Special Emergency Funds; and (B) Supplemental Service Provision, which includes funding for Law School Clinics and Supplemental Field Programs. The amount allocated for direct delivery represents 91 percent of the total budget requested for FY 1991.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
A. FIELD PROGRAMS				
Total	289,706	288,281	311,073	22,792
Appropriation	288,281	288,281	311,073	22,792
Funds Carried Forward from Previous Year	1,425	---	---	---

FIELD PROGRAMS

The Field Program category includes funding for Basic Field Programs, Native American Programs and Components, Migrant Programs and Components, and Special Emergency Funds.

The Corporation funds 284 basic field programs throughout the United States and several territories. These programs provide legal assistance to eligible poor clients. The amount of funds awarded in these grants is determined by the poverty population within each program's service area, as determined by the 1980 census. Each basic field program employs a salaried staff of attorneys and support personnel.

Also funded are forty-two grants for programs and components of programs that provide legal services exclusively to migrant workers and their families.

Special legal services for Native Americans are also funded from this budget category. The Corporation provides grants to thirty-two programs and components of programs that offer legal services to Native Americans. These programs specialize in tribal law and customs particular to Native Americans in the United States.

The Corporation requests that a new budget subcategory be added to the basic field category, a provision for special emergencies. In FY 1990, many legal services programs experienced extensive damage as a result of Hurricane Hugo and the California earthquake. The Corporation plans to hold these funds in reserve to assist legal services programs in the event of future natural disasters.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
B. SUPPLEMENTAL SERVICE PROVISION				
Total	2,201	2,154	2,320	166
Appropriation	2,154	2,154	2,320	166
Funds Carried Forward from Previous Year	47	---	---	---

SUPPLEMENTAL SERVICE PROVISION

The Supplemental Service Provision budget category includes funding for law school clinics and supplemental field programs.

The law school clinic program has been a successful method of supplementing the supply of legal services available to poor individuals while, at the same time, educating students in substantive and procedural law. The Corporation has made grants to many law school clinic programs across the United States.

The ten Supplemental Field Programs are an alternate method of providing legal services to eligible poor clients. These supplemental field programs include judicare projects, reduced-fee contracts for services, and other bar initiatives such as pro bono referrals.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
C. PROGRAM DEVELOPMENT				
Total	300	---	---	---
Appropriation	---	---	---	---
Funds Carried Forward from Previous Year	300	---	---	-

PROGRAM DEVELOPMENT

The budget subcategory for program development includes funds carried over from FY 1990. These funds have been obligated to fund the Corporation's implementation of timekeeping for legal services grantees.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
II. SUPPORT FOR THE DELIVERY OF LEGAL ASSISTANCE				
Total	17,725	17,508	18,861	1,353
Appropriation	17,508	17,508	18,861	1,353
Funds Carried Forward from Previous Year	217	---	---	---

SUPPORT FOR THE DELIVERY OF LEGAL ASSISTANCE

The Support budget category includes funding for Training and Technical Assistance, and Other Support. The Training and Technical Assistance subcategory would be used to fund the regional training centers. The Other Support subcategory would be used to fund national support centers, state support centers, the National Clearinghouse, and the computer assisted legal research activities.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
A. TRAINING AND TECHNICAL ASSISTANCE				
Total	691	640	689	49
Appropriation	640	640	689	49
Funds Carried Forward from Previous Year	51	---	---	---

TRAINING AND TECHNICAL ASSISTANCE

This budget subcategory would be used to fund five regional training centers that arrange training sessions and produce training materials for legal services programs and attorneys.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
B. OTHER SUPPORT				
Total	17,034	16,868	18,172	1,304
Appropriation	16,868	16,868	18,172	1,304
Funds Carried Forward from Previous Year	166	---	---	---

OTHER SUPPORT

The Other Support budget subcategory would be used to fund national support centers, state support centers, the National Clearinghouse and computer assisted legal research activities.

The Corporation currently funds sixteen national support centers that specialize in various aspects of "poverty law" or in the problems of particular classes of individuals, such as the elderly or migrant farm workers. The centers produce publications and provide information relating to their respective areas. They also lobby Congress and Federal agencies and monitor legislation and the adoption of regulations that are of interest to their constituencies.

The Corporation also makes sixty-seven state support grants, sixty-one of which are supplemental grants provided to existing basic field programs. These grants provide additional support services at the state level to basic field programs.

The National Clearinghouse is would also be funded from this budget category. The Clearinghouse provides research and information to legal services attorneys, and also publishes the Clearinghouse Review, a journal that contains articles concerning issues of interest to legal services attorneys.

The Corporation also makes six grants to programs that provide computer assisted legal research, such as Westlaw and Lexis retrievals, to legal services programs upon request.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual		1991 Base		1991 Estimate		Inc. (+) or Dec. (-) 1991 Est. to 1991 Base	
	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's
III. CORPORATION MANAGEMENT AND GRANT ADMINISTRATION								
Total	10,661	146	8,582		[illegible],600	151	3,018	
Appropriation	8,582	146	8,582		10,746	151	2,164	
Funds Carried Forward from Previous Year	2,079		---		854		854	

CORPORATION MANAGEMENT AND GRANT ADMINISTRATION

The budget category for Corporation Management and Grant Administration includes funds for Management and Administration, Competition and Board Initiatives, and an amount set aside for Special Contingencies.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual		1991 Base		1991 Estimate		Inc. (+) or Dec. (-) 1991 Est. to 1991 Base	
	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's
A. MANAGEMENT & ADMINISTRATION								
Total	10,564	146	8,582		11,000	151	2,418	
Appropriation	8,582	146	8,582		10,146	151	1,564	
Funds Carried forward from Previous Year	1,982		---		854		854	

MANAGEMENT AND ADMINISTRATION

Funds would be drawn from the Management and Administration budget category to pay the costs of operating the Corporation and administering its grants. This category would be used to fund an eleven-member Board of Directors, seven offices within corporate headquarters, and five regional offices.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
8. COMPETITION & BOARD INITIATIVES				
Total	---	---	500	500
Appropriation	---	---	500	500
Funds Carried Forward from Previous Year	---	---	---	---

COMPETITION AND BOARD INITIATIVES

This budget subcategory would be used to fund the development and implementation of a competitive bidding system for legal services grants, in accordance with Congressional instruction. Also included in this subcategory is funding for other initiatives that could by authorized by the Corporation's Board of Directors and undertaken for purposes of stimulating and expanding the provision of legal services.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
C. SPECIAL CONTINGENCY FUNDS				
Total	---	---	100	100
Appropriation	---	---	100	100
Funds Carried Forward from Previous Year	---	---	---	---

SPECIAL CONTINGENCY FUNDS

The Corporation has included a special budget subcategory for certain funds to be held in reserve for unanticipated contingencies and other non-routine expenses.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual	1991 Base	1991 Estimate	Inc. (+) or Dec. (-) 1991 Est. to 1991 Base
	Amount	Amount	Amount	Amount
D. MERITORIOUS GRANT AWARDS				
Total	97	---	---	---
Appropriation	---	---	---	---
Funds Carried Forward from Previous Year	97	---	---	---

MERITORIOUS GRANT AWARDS

This budget subcategory includes funds carried over from fiscal year 1989. The Corporation's Board of Directors set aside these funds to make meritorious grant awards to several programs that had suffered damage from Hurricane Hugo and the California earthquake.

LEGAL SERVICES CORPORATION
ACTIVITIES IN BRIEF
(dollars in thousands)

	1990 Actual		1991 Base		1991 Estimate		Inc. (+) or Dec. (-) 1991 Est. to 1991 Base	
	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's
TOTAL--REQUIREMENTS	320,593	146	316,525		343,854	151	27,329	
Appropriation	316,525	146	316,525		343,000	151	26,475	
Funds Carried Forward from previous year	4,068		---		854		854	

BASIC FINANCIAL TABLES

LEGAL SERVICES CORPORATION
BUDGET SUMMARY -- FISCAL YEARS 1989, 1990 AND 1991

(dollars in thousands)

	1989 Budget	1990 Budget	1991 Estimate	Change 90 TO 91
DELIVERY OF LEGAL ASSISTANCE	283,756	292,207	313,393	21,186
Appropriation	283,169	290,435	313,393	22,958
Funds Carried Forward from Previous Year	587	1,772	---	(1,772)
SUPPORT FOR THE DELIVERY OF LEGAL ASSISTANCE	17,261	17,725	18,861	1,136
Appropriation	17,070	17,508	18,861	1,353
Funds Carried Forward from Previous Year	91	217	---	(217)
Other Funds Available received in FY 89	100	---	---	---
CORPORATION MANAGEMENT AND GRANT ADMINISTRATION	10,981	10,661	11,600	939
Appropriation	8,316	8,582	10,746	2,164
Funds Carried Forward from Previous Year	1,780	2,079	854	(1,225)
Other Funds Available received in FY 89	885	---	---	---
TOTAL -- REQUIREMENTS	311,998	320,593	343,854	23,261
Appropriation	308,555	316,525	343,000	26,475
Funds Carried Forward from Previous Year	2,458	4,068	854	(3,214)
Other Funds Available received in FY 89	985	---	---	---

LEGAL SERVICES CORPORATION
APPROPRIATION EXPENSES BY ACTIVITY -- FISCAL YEARS 1990 AND 1991

(dollars in thousands)

	1990 Funds Carried Forward from 1989		1990 Sequestration Levels		1991 Base		1991 Request	
	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's	Amount	Perm Posn's
Management and Administration	2,079		8,582	146	8,582		10,746	151
Program Activities	1,989		307,943	---	307,943		332,254	---
TOTAL	4,068		316,525	146	316,525		343,000	151

LEGAL SERVICES CORPORATION
EXPENSES FROM ALL SOURCES BY ACTIVITY AND OBJECT CLASS
FISCAL YEARS 1990 AND 1991

(dollars in thousands)

	MANAGEMENT & ADMIN		PROGRAM ACTIVITIES		TOTALS		
OBJECT CLASS	1990	1991	1990	1991	1990	1991	CHANGE
Personnel Compensation	4,973	5,422			4,973	5,422	449
Employee Benefits	1,198	1,308			1,198	1,308	110
Other Personnel Services	313	199			313	199	(114)
Independent Consulting	957	1,003	11		968	1,003	35
Travel and Transportation	834	793	14		848	793	(55)
Communications	156	138			156	138	(18)
Occupancy Costs (Space)	1,392	1,392			1,392	1,392	0
Printing and Reproduction	136	160			136	160	24
Other Operating Expenses	480	455			480	455	(25)
Capital Expenditures	125	130			125	130	5
Subtotal	10,564	11,000	25	---	10,589	11,000	411
Grants and Contracts	---	---	309,253	332,254	309,253	332,254	23,001
Competition and Board Initiatives	---	500	---	---	---	500	500
Special Contingency Funds	---	100	---	---	---	100	100
Meritorious Grant Awards	---	---	97	---	97	---	(97)
Total Expenses	10,564	11,600	309,375	332,254	319,939	343,854	23,915

Source of Funds		
Appropriation	316,525	343,000
Funds Carried Forward from Previous year	4,068	654
Funds Carried to the Next year from Appropriation	(654)	---
Funds Carried to the Next year from Other Income	---	200
Total	319,939	343,854

APPENDICES

LEGAL SERVICES CORPORATION
SUMMARY STATEMENT OF SUPPORT, REVENUE AND EXPENSES AND OTHER CHANGES

(dollars in thousands)

	1989 Actual	1990 Estimate	1991 Estimate
Fund Balances at Beginning of Year			
Federal Appropriation	2,274	3,936	654
Other Sources	184	132	200
Total Fund Balances	2,458	4,068	854
Support and Revenue During the Period			
Federal Appropriation	308,555	316,525	343,000
Other Sources	132	200	---
Grants Recoveries	1,306	---	---
Total Support and Revenue	309,993	316,725	343,000
Total Funds Available	312,451	320,793	343,854
Expenses During the Period			
Program Activities:			
Grants and Contracts	298,461	309,350	332,254
Program Services	19	---	---
Total Program Activities	298,480	309,350	332,254
Supporting Activities:			
Management and Administration	9,807	10,464	10,870
Competition & Board Initiatives	28	---	500
Special Contingency Funds	---	---	100
Property and Equipment	68	125	130
Total Expenses	308,383	319,939	343,854
Fund Balance at Close of Fiscal Year	4,068	854	---

LEGAL SERVICES CORPORATION

STATEMENT OF SUPPORT, REVENUE AND EXPENSES AND OTHER CHANGES IN FUND BALANCES

FISCAL YEAR 1989 ACTUAL

(dollars in thousands)

	Uncommitted	Committed	Total
Fund Balance at Beginning of Year			
Federal Appropriation	1,596	678	2,274
Other Sources	184	---	184
Total Fund Balances	1,780	678	2,458
Support and Revenue During the Period			
Federal Appropriation	---	308,555	308,555
Other Sources	132	---	132
Grants Recoveries	1,306	---	1,306
Total Support and Revenue	1,438	308,555	309,993
Total Funds Available	3,218	309,233	312,451
Expenses During the Period			
Program Activities:			
Grants and Contracts	1,139	297,322	298,461
Program Services	---	19	19
Total Program Activities	1,139	297,341	298,480
Supporting Activities:			
Management and Administration	50	9,757	9,807
Program Development	---	28	28
Property and Equipment	---	68	68
Total Expenses	1,189	307,194	308,383
Fund Balance at Close of Year	2,029	2,039	4,068

LEGAL SERVICES CORPORATION

STATEMENT OF SUPPORT, REVENUE AND EXPENSES AND OTHER CHANGES IN FUND BALANCES

FISCAL YEAR 1990 ESTIMATE

(dollars in thousands)

	Uncommitted	Committed	Total
Fund Balance at Beginning of Year			
Federal Appropriation	1,897	2,039	3,936
Other Sources	132	---	132
Total Fund Balances	2,029	2,039	4,068
Support and Revenue During the Period			
Federal Appropriation	---	316,525	316,525
Other Sources	200	---	200
Total Support and Revenue	200	316,525	316,725
Total Funds Available	2,229	318,564	320,793
Expenses During the Period			
Program Activities:			
Grants and Contracts	1,375	307,975	309,350
Program Services	---	---	---
Total Program Activities	1,375	307,975	309,350
Supporting Activities:			
Management and Administration	---	10,464	10,464
Training Development & Tech Assist	---	---	---
Property and Equipment	---	125	125
Total Expenses	1,375	318,564	319,939
Fund Balance at Close of Year	854	---	854

LEGAL SERVICES CORPORATION
STATEMENT OF SUPPORT, REVENUE AND EXPENSES AND OTHER CHANGES IN FUND BALANCES

FISCAL YEAR 1991 ESTIMATE

(dollars in thousands)

	Uncommitted	Committed	Total
Fund Balance at Beginning of Year			
Federal Appropriation	---	654	654
Other Sources	---	200	200
Total Fund Balances	---	854	854
Support and Revenue During the Period			
Federal Appropriation	---	343,000	343,000
Other Sources	---	---	---
Total Support and Revenue	---	343,000	343,000
Total Funds Available	---	343,854	343,854
Expenses During the Period			
Program Activities:			
Grants and Contracts	---	332,254	332,254
Program Services	---	---	---
Total Program Activities	---	332,254	332,254
Supporting Activities:			
Management and Administration	---	10,870	10,870
Competition & Board Initiatives	---	500	500
Special Contingency Fnds	---	100	100
Property and Equipment	---	130	130
Total Expenses	---	343,854	343,854
Fund Balance at Close of Fiscal Year	---	---	---

LEGAL SERVICES CORPORATION
STAFF SALARIES -- FISCAL YEARS 1989, 1990 AND 1991

	1989 Budget	1990 Budget		1991 Budget	
SALARY RANGES	Number of Positions	Change From 1989	Number of Positions	Change From 1990	Number of Positions
LSC LEVEL I $10,527 - $16,257	2	2	4	-1	3
LSC LEVEL II $14,034 - $20,174	17	1	18	2	20
LSC LEVEL III $17,981 - $24,735	23	-8	15	1	16
LSC LEVEL IV $22,076 - $30,263	28	-4	24	0	24
LSC LEVEL V $27,829 - $38,274	20	5	25	2	27
LSC LEVEL VI $34,063 - $47,777	37	-2	35	1	36
LSC LEVEL VII $41,811 - $59,207	15	-1	14	0	14
Unclass. Posn's.	11	0	11	0	11
TOTAL	153	-7	146	5	151

LEGAL SERVICES CORPORATION
STAFF POSITIONS - FISCAL YEARS 1989, 1990 AND 1991

	1989 Budget	1990 Budget		1991 Budget	
OFFICE	Number of Positions	Change From 1989	Number of Positions	Change From 1990	Number of Positions
Executive Office	8	-1	7	1	8
General Counsel	13	2	15	0	15
Inspector General	4	1	5	1	6
Policy Dev. & Communication	11	0	11	0	11
Human Resources	10	1	11	0	11
Monitoring,Audit,Compliance	55	-5	50	3	53
Southern Region	3	-1	2	0	2
Midwest Region	2	0	2	-2	0
Rocky Mtn. Region	1	-1	0	0	0
Native American Unit	2	-1	1	-1	0
Pacific Region	4	0	4	0	4
Fin & Admn Services	20	-2	18	1	19
Field Services	20	0	20	2	22
TOTAL	153	-7	146	5	151

Mr. **Smith**. We have with us the President of the Legal Services Corporation, Terrance Wear, and the Chairman of the Board, George Wittgraf.

Mr. **Erlenborn**. You might add to that, Mr. Chairman, the Vice Chairman of the Board, John Erlenborn, here mostly to listen.

Mr. **Smith**. I was getting ready to add that but I was looking at Terrance Wear. Now you are the President of the Board, but are you——

Mr. **Wittgraf**. Chief Administrative or Executive officer.

Mr. **Smith**. I see, and you are getting ready to leave. Is that correct?

Mr. **Wear**. Yes, that is correct, Mr. Chairman.

Mr. **Smith**. When will that occur?

Mr. **Wear**. The end of June.

RECESS APPOINTEES TO THE BOARD

Mr. **Smith**. I see. Now you are nominated but not confirmed. Is that right?

Mr. **Wittgraf**. We are 2 of 11 recess appointees.

Mr. **Smith**. Yes.

Mr. **Wittgraf**. Technically, we are not nominated as of this time, and we are certainly not confirmed at this time.

Mr. **Smith**. When do you expect the confirmation and all that to take place?

Mr. **Wittgraf**. That is a good question. We will start with nomination. We have been led to believe nomination will be yet this spring, hopefully within the next month or so, when the FBI field checks are completed.

Mr. **Smith**. I see, yes.

Mr. **Wittgraf**. And we hope—and I visited with Senator Rudman last evening for a few minutes—I think his intention at least is to try to move toward confirmation as quickly as possible following our nomination.

Mr. **Smith**. I see. Okay.

Mr. **Wittgraf**. So hopefully by fall at the latest.

Mr. **Smith**. Now how do you want to proceed here? Do you have any statements you want to insert in the record?

Mr. **Wittgraf**. I believe Mr. Wear does. I don't believe either Mr. Erlenborn nor I do.

Mr. **Smith**. Okay, then you have an oral statement?

Mr. **Wittgraf**. Just a few comments, by way of background for you and your staff and Mr. Rogers.

Mr. **Smith**. That will be fine. Go ahead, go ahead.

General Statement of George Wittgraf

Mr. **Wittgraf**. There are 11 of us who are recess appointees, just since the end of January, in a governmental or a quasi-governmental entity that has a history of recess appointees or appointments. We do anticipate, as I have indicated, that the 11 of us will be nominated yet this spring, and we hope confirmed yet this year.

We have, as a board, met only on two occasions. We met on February 12th, when I was elected chairman and Mr. Erlenborn was elected vice-chairman. We met again this week, Monday and Tuesday, the 26th and 27th of March.

We did on the 26th of March spend our entire day hearing from people who are involved with or have concerns with the Legal Services Corporation and the provision of federally funded legal services.

We did then yesterday—following our hearing, if that is the best way to characterize it, on Monday—we did yesterday as a board adopt a budget recommendation for this subcommittee and for your House Appropriations Committee. What we adopted is reflected in the figures you have before you, the $343 million.

I think it is fair to say that the 11 of us who are at the moment recess appointees come largely as neophytes, although neophytes to the legal services community with no axes to grind or no oxen that we are looking to gore. We were impressed, I think it is fair to say, this past Monday that there is a substantial unmet need for legal services for poor Americans, and with that in mind we ask for a slightly larger budget to be spent essentially along the same lines that the fiscal year 1990 budget is going to be spent.

We would like to think that we are moving forward in terms of a constructive—we assume there will still be tensions—but a constructive relationship between the Legal Services Corporation board and its staff in Washington and the legal services community with whom we will be working across the country. We think that our board also is moving generally in unison and is not fractured, as some boards have been in the past.

Those are my comments, Mr. Chairman. Mr. Erlenborn may have a few of his own.

STATEMENT OF JOHN ERLENBORN

Mr. **ERLENBORN.** Mr. Chairman, I have very little to add to that, except that I was appointed as of the first of December of last year and I attended one board meeting with the old board on December 15 and then the two meetings that Chairman Wittgraf has referred to, of the new board of the recess appointees.

The difference is the difference between day and night. The animosities, the difficulties of the past board, are no longer apparent. We have a board that does work together, as Chairman Wittgraf has said. We adopted the budget with no rancor, no great debate.

There are a couple of new initiatives in the budget that I will mention. One is item A-4, special emergency funds. We have had a number of requests from recipients of legal aid grants, legal services grants, that were damaged in the hurricane or earthquake in the past year, who have come for emergency assistance. We really have been ill-equipped to meet those needs, and that was one new item added to the budget, so that we could respond to some of those emergency needs without them having to come to Congress and seek legislation.

There are a couple of other initiatives, but basically the budget that was adopted by the Corporation's board yesterday is about a 6 percent increase over the appropriation of last year, to account for inflation and a slight increase in spending, but the president of the corporation will explain that budget in greater detail.

Mr. SMITH. Well, how many meetings has the new board held?

Mr. WITTGRAF. We have had two, Mr. Chairman, February 12th and then March 26 and 27.

Mr. SMITH. I see. Well, I am sure you know the history of it. You haven't had an authorization for several years, and due to the fact that there is no authorization, it was apparent that there needed to be guidelines that were not in the general law.

We have included in our appropriations bill what amounts to an authorization with a number of limitations, many of which we would like to get rid of if we had a board that we felt could operate the way most people would want it to operate, and we hope that we will not have to continue to do that. However, I am assured that there will be an authorization bill on the floor of the House. Do you know anything more about that?

Mr. WITTGRAF. Yesterday one of your colleagues, Mr. McCollum of Florida, visited with us for approximately 45 minutes. He indicated in his conversations with Mr. Frank, that Mr. Frank had indicated that until there was a new and confirmed board in place, that he was not planning to proceed with further hearings on the question of authorization or reauthorization, so at least the impression we were given yesterday morning by Mr. McCollum was that there is nothing in the offing.

Mr. SMITH. Well, I was assured that as soon as the board is confirmed, that they will try to get a bill on the House floor and let the House work its will, you know, and then we will have something more to go by than just writing it as we do, with a few people sitting down and writing what amounts to an authorization. That is what our hope is.

Now let's go into your request.

Do you have any comments?

STATEMENT OF TERRANCE J. WEAR

Mr. WEAR. Mr. Chairman, if I may I would like to submit a written statement for the record.

Mr. SMITH. Okay.

Mr. WEAR. I recognize that this subcommittee has had difficulty with regard to the appropriations process in the past because there has not been an authorization. I am hopeful that those problems will be remedied as we move forward.

In the testimony that we heard on Monday of this week, and indeed from others prior to that time, I think it is clear that the face of poverty has changed, and we need some new emphasis in our program on such things as child support and the amelioration of drug activity. I go into that in greater detail in my statement, but I think that that is certainly one way to get out of the controversy that has dogged this program since its inception in 1974.

I don't think there is anyone who disagrees about child support or disagrees about taking more actions to get drug dealers out of neighborhoods or out of schools. I think that is an area into which this program can and should move.

Mr. Chairman, I would be pleased to supplement any other comments you wish to have with regard to the specific dollar amounts in the appropriation request, and I would be glad to respond to your questions.

[The prepared statement of Mr. Wear follows:]

STATEMENT OF TERRANCE J. WEAR

PRESIDENT

LEGAL SERVICES CORPORATION

Mr. Chairman, Members of the Subcommittee -- I am Terrance J. Wear, the President of the Legal Services Corporation. It is my pleasure to speak with you today about the appropriations you will make for the legal services program for Fiscal Year 1991.

Let me begin by saying that I appreciate how much more difficult your job in this matter has become, in light of the fact that the last authorization bill for the Corporation was passed in 1977, more than a decade ago.

Over the twelve years that have come and gone since the Congress passed that three year authorization for the legal services program, the Legal Services Corporation has become increasingly effective in carrying out its mission -- giving America's poor people ever expanding access to our judicial system through legal representation.

The battle for the legal empowerment for our nation's poor is being fought today by more than eleven thousand people, in more than 320 private non-profit organizations across America.

And, Mr. Chairman, the battle is different today than it has ever been. The face of poverty has changed rapidly over the past two decades, and the identities and needs of the poor people who are our clients have changed as well.

In 1988, for the first time in history, female-headed single parent households became the majority -- more than 50%, Mr. Chairman -- of American households in poverty.

And there are 2.8 million female-headed impoverished households in America today that receive no child support.

The other side of this story is that the people who are morally and legally responsible to share in the support of an entire generation of poor children -- their fathers -- have managed to escape that responsibility.

Please bear in mind, Mr. Chairman, we are not speaking here of a few derelicts or scofflaws. We are not talking about exceptions to the rule. We are, however, talking about millions of people, a new generation living in poverty because of the inability to hold these fathers to their legal responsibilities.

More and more, Mr. Chairman, these poor mothers are turning to the local legal services programs, not for a handout, not even for themselves, but for their children -- to win the support to which their children are legally entitled. The Corporation and the organizations to which these appropriated funds go can and should help these children make their parents live up to their legal and financial responsibilities.

If the issue of the lack of child support represents a blackened eye on the changing face of poverty, surely the other eye is swollen and diseased from the disproportionate presence of drugs and drug violence in poor communities.

Here too, the legal services programs have a role. Nuisance suits and zoning laws are only a couple of the weapons at our lawyers' disposal when poor clients come to them and say, "Help us get rid of the drug dealers next door."

Mr. Chairman, you should be able to look to the legal services program as one very effective front-line division in this war; that is certainly one of our most important goals.

To achieve these goals, the Corporation requests $343,000,000 for Fiscal Year 1991 for the legal services program. Of this total, $313,393,000 is requested to fund the direct delivery of legal assistance to eligible clients. Of this figure, $292,097,000 is allocated for the 284 basic field programs that provide general legal assistance to poor clients. An additional $1,105,000 is requested for supplemental field programs. These programs are alternative methods of providing direct legal assistance; included for funding are judicare projects, reduced fee for service contracts, and other initiatives, such as pro bono referrals.

The Corporation requests $7,759,000 to fund 32 Native American programs and components to provide legal services specifically for Native Americans. $10,717,000 is requested to fund 42 migrant programs and components that provide legal services for migrant agricultural workers and their families. In addition, $500,000 is requested for a Special Emergency Fund, to meet program and service needs stemming from national disasters.

The Corporation also requests $1,215,000 for the law school clinic program. The law school clinic program, which began as a pilot program in 1987, has proven successful in providing additional legal assistance in local communities, while at the same time providing training for law students.

A total of $18,861,000 is requested for program support. Of this, $689,000 is requested for the five regional training centers, $7,986,000 is requested for the sixteen national support centers, $8,666,000 is requested for the 67 state support recipients, $956,000 is requested to fund the legal services Clearinghouse, and $564,000 is requested to fund the six Computer Assisted Legal Research (CALR) centers, which provide custom legal research support for other LSC-funded programs.

Over the past several years, the Legal Services Corporation has spent approximately $10 million per year for the management and administration (M&A) of the legal services program. This has been accomplished through a reduced appropriation for M&A in past years, because carryover funds were available from previous years to supplement the amount appropriated. We anticipate that we will need approximately $11,000,000 for management and administration in FY 1991, and, since minimum carryover for FY 1990 is projected to be $854,000, the corporation requests an appropriation of $10,746,000 for M&A for FY 1991. Of this amount, $500,000 is requested for the implementation of competition and other board initiatives. Congress has instructed LSC to "develop and implement a system for the competitive award of all grants and contracts" and, while some of the preliminary work on this matter has been done, the corporation will need these funds to carry out this task. Also, $100,000 of the total appropriation for M&A is requested as a special contingency fund.

The Corporation has taken steps in the past year to ensure that funds appropriated for the Federal legal services program are used according to Congressional intent. The Corporation, for example, recently proposed new regulations and published several revisions to existing regulations.

The Corporation published a regulation prohibiting involvement by legal services programs in redistricting or reapportionment activities. In response to a Congressional request made in 1984, the Corporation surveyed legal services programs about the extent of their activities in reapportionment and redistricting matters following the 1980 Census, and found that at least thirty-four legal services programs devoted more than 28,000 hours and over $600,000 to Congressional, state, and local reapportionment and redistricting efforts.

The Federal legal services program is, by design, non-partisan. The Legal Services Corporation Act states that "to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures." Redistricting is, however, inherently political.

In view of the upcoming 1990 Census, the Corporation last proposed a regulation prohibiting the use of any funds for such activities. The Corporation gave notice to this Committee of its intent to use Corporation funds to implement this regulation in July 1989 and the Committee raised no objection. The regulation was published as a final rule in August 1989.

The Corporation also amended its regulation concerning fee-generating cases to include a provision mandating that a portion of the attorneys' fees received by legal services programs be redistributed to other programs to provide a more equitable distribution of funds. As our FY 1990 appropriations act mandates, no further action to implement this regulation will be undertaken until the new board of directors has been confirmed by the Senate.

The Corporation also proposed and adopted amendments to its regulation concerning the use of private funds. During the past several years, the Corporation has been hindered in its attempts to monitor program compliance with statutory and regulatory restrictions. Legal services programs that engage in activities that are prohibited by the Legal Services Corporation Act or regulations frequently claim that they are using unrestricted private funds to support these activities, without providing sufficient documentation, such as time records, to enable the Corporation to conclude that the claim is true. This regulation will put the burden of demonstrating compliance on the legal services programs, rather than requiring the Corporation to prove that the programs are not in compliance. Further action on these amendments will also be postponed until the new board is confirmed.

Mr. Chairman, it has been my pleasure to appear before you today. I'm very pleased with our record and will be glad to answer any questions you may have.

DERIVATION OF BUDGET REQUEST

Mr. **Smith**. Okay. Now let's go through how you arrived at the $343 million figure. In the area of legal assistance you have an increase from $294,541,000 to $313.393,000. Was that a matter of adding inflation, or what was involved in that increase?

Mr. **Wear**. That, Mr. Chairman, represents a straight percentage increase. The percentages amount to approximately 6.85 percent over what was appropriated last year, approximately 8.4 percent over what was left after sequester.

Mr. **Smith**. That is in the delivery of legal assistance, then.

Mr. **Wear**. Yes, sir.

Mr. **Smith**. In that one item.

Mr. **Wear**. Yes. It is a straight across-the-board increase, and those increases are reflected in each of the items or categories listed in subsection A and subsection B.

Mr. **Smith**. The same percentage? Is the same percentage reflected in——

Mr. **Wear**. I believe so, yes, sir.

Mr. **Wittgraf**. Item A-4, Mr. Chairman, as Mr. Erlenborn indicated, is one new item.

Mr. **Smith**. Okay. Other than that, there is the same percentage increase in each of the categories?

Mr. **Wittgraf**. Yes.

Mr. **Wear**. Yes, sir.

Mr. **Smith**. I see, and how did you arrive at the percentage to increase?

Mr. **Erlenborn**. Maybe I should respond to that, because I basically had the budget prepared and presented to the board.

Mr. **Smith**. Yes.

Mr. **Erlenborn**. The method of arriving at that was to account for inflation plus a modest increase, and it came out in our estimation to be about 6.8 percent, as the president said——

Mr. **Smith**. I see, yes.

Mr. **Erlenborn** [continuing]. Applied without changing any of the categories. It was applied across the board, without any new initiatives except the special emergency funds.

Mr. **Smith**. Okay. Then——

Mr. **Erlenborn**. That is true of all of the items going down, until you get to item 3, management and administration.

EFFECT OF FY 1990 SEQUESTRATION

Mr. **Smith**. Now what effect has sequestration had on you?

Mr. **Wittgraf**. In terms of dollars or in terms of——

Mr. **Smith**. Yes. How have you handled it?

Mr. **Wittgraf**. It has been across the board applied to the delivery of services, I believe, Mr. Chairman. What it has meant as a practical matter is that Legal Services Corporation grantees have had to either not give pay increases to staff attorneys, have had to reduce the number of staff attorneys, or in some cases have had to reduce the number of outreach offices. I think those would be the several practical effects.

Mr. **Smith**. Well, how do you handle it in—many of these offices only have three or four people.

Mr. WITTGRAF. Yes, sir.

Mr. SMITH. I mean, you can't cut out one person for three percent or whatever it is.

Mr. WITTGRAF. It is a matter of assessing priorities. As the chairman understands, I believe, there are essentially 324 principal Legal Services Corporation grantees with local governments, by staff with guidance from local boards, and those are priorities that have to be established. In the case of Legal Services Corporation of Iowa, for example, which operates everywhere outside of Polk County, they have over the course of the 1980s—not specifically because of sequestration, but that being part of the whole—have closed offices, such as in Spencer, Iowa, and have reduced staff attorneys.

We had appear before us this past Monday the man who runs the Legal Services Program in northeast Missouri, and he has reduced his staff from three people to two people, and that is sometimes what it means; not always. Sometimes it is the absence of pay increases, but in some instances it is the closing of offices and reduction of overhead expenses, or it is in some cases the reduction of staff from a full-time staff member to a half-time or part-time staff member, or sometimes the elimination of a staff member. It is difficult to generalize because of the wide variety of Legal Services grantees across the 324.

Mr. SMITH. Well, what I am getting to here is that in your field programs, people are hired for a year at a time, and salaries are pretty well set. You have lights and rent and so forth. Those things are pretty well set. Then you come along with a three or four percent reduction. Either somebody has to go or an office has to close somewhere in the state, or else you continue. The alternative is to continue as if you are going to have the same amount of money but you end up short in the last month. How have you handled that?

Mr. WITTGRAF. In addition to Legal Services funds, almost all of the 324 grantees have, particularly during the course of the 1980s, been forced, I think they would say, to obtain other sources of funding. IOLTA funds, interest on lawyers' trust accounts, have been the biggest single factor in that. There are some states where state funds are authorized. There are some grantees that have obtained private funds, but there have been the reductions that I have described in general terms. In some cases those reductions have at least been forestalled by the generation of private funds.

Mr. SMITH. That is what I was getting to for the next question. In some cases they have actually reduced personnel——

Mr. WITTGRAF. Yes, sir.

Mr. SMITH [continuing]. Or closed an office. In other cases they have been able, at least temporarily, to generate some other funds.

Mr. WITTGRAF. Yes, sir.

Mr. WEAR. Mr. Chairman.

Mr. SMITH. Yes.

Mr. WEAR. If I might add a couple of points, the sequester amounted to a 1.4 percent decrease over what was appropriated.

Mr. SMITH. Yes.

Mr. WEAR. In actual dollars, the amounts going for the Legal Services Program this year are greater than they were last year.

Mr. SMITH. I see, because that was less than inflation.

Mr. **Wear**. Last year it was $308,555,000. This year it is $316,525,000. The sequester amounted to lowering the amount of increase.

Mr. **Smith**. In other words, they didn't get the full inflationary increase.

STATUS OF OFFICE OF INSPECTOR GENERAL

What is the status of the Inspector General's office?

Mr. **Wear**. Mr. Chairman, the Corporation has an Inspector General, and I think we have sent some correspondence to you on that. Under the amendments to the Inspector General Act that were adopted in 1988, the corporation established an Inspector General's office. An Inspector General was hired in August of last year, came on board in September. It is an individual by the name of Mr. David Wilkinson. He is a former State Attorney General for the State of Utah. He joined the corporation after having served in that post for 8 years. He has an assistant now. He is advertising for some additional help. The——

Mr. **Smith**. He is not really in operation yet, then. Is that what you are saying?

Mr. **Wear**. Well, no, I wouldn't say that. He is operating but he is not up to full speed.

Mr. **Smith**. Has he had made any reports?

Mr. **Wear**. Yes, he has.

Mr. **Smith**. Has he been back to you, talking to you about things that he found that he thought ought to be changed?

Mr. **Wear**. Yes.

Mr. **Smith**. Do you have anything to report on that today?

Mr. **Wear**. None, other than the things that I have reported. I sent to the full committee, with copies to this subcommittee, a copy of a report that Mr. Wilkinson completed, I think in February. There was a cover letter with that report. He is, in addition, looking at some other matters at this time, but has not issued any formal reports to me. I do expect, however, that there will be some additional reports coming as these other investigations move forward.

CHILD SUPPORT MATTERS

Mr. **Smith**. Now tell me about this child support issue. You brought that up in your statement. What are you talking about specifically?

Mr. **Wear**. Mr. Chairman, our Legal Services Programs handle about 1.4 million cases a year. Out of those cases, roughly 33 percent of those cases are what we categorize as brief advice cases, something less than 30 minutes on the telephone or meeting with the individual. Out of the total number of those cases, very few deal with the issue of child support.

We had some testimony on Monday of this week indicating that the people in the Government program that do child support believe that Legal Services lawyers could be very helpful to them, both in pursuing child support and in handling the non-child support issues that are usually a part of the legal effort to seek child support. Usually the person who needs child support needs something in addition, such as some sort of a protective order or other sort of legal advice, and the witnesses that we listened to indicated that that would be very helpful.

I do think that that is an area that we can do a lot with, that our programs can cooperate with the so-called 4[d] child support enforcement programs that are out there now, and I think it is going to be a very productive area for us to——

Mr. SMITH. Now are these children who are being supported by public assistance in most cases, or in some cases, or——

Mr. WEAR. In many cases I think that is accurate. However, our eligibility standards go up to 125 percent of the poverty level——

Mr. SMITH. Right.

Mr. WEAR [continuing]. And so there would be some that would not be, but there are a significant number I think that are.

Mr. SMITH. Now are you talking about then bringing actions in support of court decrees, or because one or the other of the parents could pay money to keep them off of public assistance and they are not doing so?

Mr. WITTGRAF. Mr. Chairman, if I might, that is a difficult question to answer, in the sense that the Title 4[d] initiatives or efforts vary so much across the country that I think what we are looking for is not only, as Mr. Wear has indicated, some assistance in child support, but child support and child custody matters, where Title 4[d] attorneys who are technically representing a given jurisdiction—the state of Iowa, the state of Indiana—where they cannot be involved, some additional opportunity for involvement there, or where the Title 4[d] attorneys have not been able to take the initiative or have not chosen to take the initiative. Then there is the potential for Legal Services attorneys to step in and to enforce a child support obligation on a non-custodial parent who has the capacity for paying. So it could be the situation described already by Mr. Wear, or it could be filling the gaps that do exist in the Title 4[d] enforcement effort in other instances. It varies greatly from state to state.

Mr. SMITH. Well, my concern is do not get bogged down in these cases. There are some, where you definitely are needed, but let me go through a scenario here.

There are some people who are on public assistance. One or the other of the parents is not contributing. In most cases that is a violation of criminal law in the state. You don't have to go back to a court decree and start enforcing some court decree and getting all involved in a civil action. You can enforce it very quickly by, if necessary, bringing them in before the judge, and he has a temporary hearing and suspends the hearing so long as they start supporting. You get it over with in a hurry.

This happened in the fifties, especially. They got all bogged down in uniform support laws.

Mr. WITTGRAF. URISA.

Mr. SMITH. Yes, and in three-fourths of those cases it was unnecessary to get bogged down that way. They went on for a year or two, trying to enforce a court decree that had little to do with the amount of public assistance they were getting.

If they get them off of public assistance and they still are in the poverty range, that is a different deal. Then you have to go to work on some other angle, and that is where you could come in, but my concern is that you don't get all bogged down with something like those uniform support laws.

Mr. Wittgraf. I think it is fair to say, Mr. Chairman, that these determinations will be made largely on an LSC grantee-by-grantee basis. The local staffs, working with their local governing boards made up of clients as well as attorneys from the jurisdictions involved, will have to decide when there is a need for those kinds of things.

As Mr. Wear has indicated, there certainly was a great deal of testimony that we received from several different perspectives this past Monday, that more can be done.

Mr. Smith. Yes. I don't have any doubt there is a need, and probably Legal Services is the place they ought to go first.

Mr. Rogers. Will the chairman yield on that point?

Mr. Smith. Yes.

Mr. Rogers. We may have a difference, you and I, on that. I know when I was a prosecuting attorney back home for 11 years, the chief enforcement of those child support decrees was the criminal process. It got to where my whole docket was filled up with those child support cases in the felony court, and we had murder cases and other things that needed to be done, and we were turning into a collection agency. It was an absolute use of the criminal process to coerce a civil obligation, which I think is morally and perhaps even legally wrong, so I hope we don't get too——

Mr. Smith. Well, we didn't have any problem like that becuase all we did was suspend the operation of the case as long as they supported, and that was the last you saw of them.

Mr. Rogers. But every so often you have to crack the whip to make that threat——

Mr. Smith. Once in a while. Once in a while you have to have an example.

Mr. Wittgraf. If I might respond to Mr. Rogers, I think generally across the states that is where the Title 4[d] attorneys have picked up the initiative and lightened the burdens of the Cherokee County attorney or the Orange County attorney or whatever it happens to be, or the State's Attorney in a given area. In our particular jurisdiction, the state of Iowa, we have so-called child support recovery officers who work under the jurisdiction of the Department of Human Services, but with essentially the same authority as an assistant county attorney, and they have specifically taken the burden off the regular prosecutorial staff.

Mr. Rogers. If the chairman would yield just a minute more, I hope we all appreciate that where the 4[d] attorneys aren't in operation, that you are the only protective recourse a woman, a mother, an indigent, desperate person has to get back at a father who has skipped the state whose criminal process cannot reach that person. These people are desperate, and they have no other recourse. They are using tax dollars, public welfare funds, to sustain themselves, when we should be seeing that the father of those kids supports those kids, not us. So I hope we exercise a little bit of reason on this.

Mr. Smith. Well, I will tell you this. We indicted one. We got one the furthest away we could get, when I was in the prosecutor's office. He was in the state of Seattle, Washington. We brought him back, and after that I think there must have been 100 or 150 fathers who suddenly started paying child support. An example of a clear case who left the state, refused to support, had the money to do so. It was a clear violation, a criminal violation, abandoned them and had the state support them.

You know, don't get bogged down in something that takes 2 years to do, if you can do it in a short time. But there is plenty of help that is needed, I am sure, and Legal Services is the right place for them to go first and sort it out, you know. Then Legal Services knows—and I think they are doing this in many of those offices—they know where to send that individual for that particular individual case. But I just hope you are not talking about having a widespread reproduction of what we had with those uniform support laws, and taking every case and trying to support a court decree.

Mr. **Wear**. Mr. Chairman, I think we are interested in doing this in the most efficient way that we can. I think that the witnesses who have testified have shown a number of ways that this can be done. I think that the Legal Services lawyers can work with the existing system and use some of the mechanisms that they have.

One of our witnesses, for example, indicated that a poor client can come in and register for their service and still continue to pursue their case through the Legal Services operation. That is one way. The Legal Services lawyer can then use the authorities and abilities of the child support enforcement unit to help obtain that child support without a lot of hassle.

I share your concern that we ought not get bogged down in a lengthy process. I think the process should be speedy and should be very sure, so that when people realize they have these obligations, they know that they can't evade them by ducking and dodging and trying to drag the process out.

Mr. **Smith**. I have more questions but I will yield at this time.

Mr. **Rogers**. Thank you, Mr. Chairman.

Well, let me say a word of welcome to you, as well. You two gentlemen there to my right are new to this process. You have been around a little bit, Mr. Wittgraf, and Mr. Erlenborn of course.

We realize your chore is not going to be very easy, given the history of this operation and the sort of unfinished confirmation process, I guess, that has yet to be pursued, which somewhat restricts your abilities under the current law. So you are called upon to make a success of a McDonald's restaurant built upon the remains of Custer's last stand. It is going to be tough to handle.

But we have some good people, I think, involved in this corporation. We have two former members of this body, including Mr. Erlenborn, who brings a lot of credibility to the operation, as well as Mr. Molinari, a former member, now president of the Borough of Staten Island. We have a State Senate minority leader, I think, as one of the appointees, and the Mayor of Miami, and some other politically astute people I think the body needs. So we are all very optimistic on this Subcommittee that we can get out of the authorizing business and get back to what we are supposed to do, and that is appropriate only.

But being realistic, we have not had an authorization since 1977, and oversight has been haphazard to say the best. What changes have occurred in the process, did so mainly through authorization riders on our bill, a trend as I say we would like to get rid of, but we don't expect any miracles this year. It looks like you can't implement effectively any regulations until you are confirmed, and that is a long, drawn-out process under the best of circumstances, so our bill probably will likely be the authorization vehicle again, much to our chagrin, so we will have to deal with it.

CONFIRMATION OF NEW BOARD MEMBERS

Do you agree mostly with that, Mr. Wittgraf, that you are unlikely to be confirmed in time to get the authorization bill going?

Mr. **WITTGRAF**. I would refer again, as I did, to my conversation last evening with Senator Rudman, who has been working closely, particularly with Senator Kennedy, in anticipation of confirmation of the eleven of us. His commitment is to try to move as quickly as possible. If the nominations are made yet this spring, I suppose there is a possibility of confirmation yet this summer. Depending upon your schedule and your need to adjourn prior to the election, confirmation could come in time.

You gentlemen and your staff members certainly know far more about the vagaries of the appropriations and the confirmation process than I do, but the one bit of news I can bring is Senator Rudman's commitment, which I take to be sincere. He indicated that, going back to January when he and Senator Kennedy and I believe Senator Hatch had met with Governor Sununu at the White House, that the 11 of us were viewed as something of a package, for better or worse, and that the confirmation process hopefully could be expedited on that basis, as well.

RESTRICTION IN IMPLEMENTATION OF NEW REGULATIONS

Mr. **ROGERS**. Well, as I said, and you understand too, the appropriations bill, the law under which you now operate prohibits you from implementing new regulations until you are confirmed. Is that causing you problems that you can anticipate or are experiencing right now?

Mr. **WITTGRAF**. We may have problems. We have not had problems yet. As I have indicated, the 11 of us are virtually all new to this form of responsibility. We have had some contact—I have, for example, as a volunteer in the Volunteer Lawyers Project for the Legal Services Corporation of Iowa—but that is far removed from what we are dealing with here, so that we are essentially all at the front end of a learning curve. These past 2 days, Monday and Tuesday of this week, were very helpful to us in that regard.

I don't believe, in attempting to speak both for Mr. Erlenborn and for the remainder of the board members, that we are looking in the near future at promulgating new regulations so for the time being it is not hamstringing us, I don't believe. Come the end of the summer or the fall, I might have a different answer.

But thus far we are looking now, upon Mr. Wear's resignation effective June 30 as president, for the selection of a new president. Of all the things we do during our first year or so of activity, or perhaps ever during the period of our appointments, that is probably the most important thing that we are going to do. Now that we have, as best we can, made a budget recommendation, probably the greatest portion of our energies will be directed toward the presidential search effort.

Mr. **Rogers**. Well, you know that whether it occurs in the authorization bill, which is unlikely, or in our bill, which would be more likely, there are those who think there are some reforms that are needed.

Mr. **Wittgraf**. Yes, sir.

Mr. **Rogers**. And I am sure that is true on your board, hopefully on your board as well. Reasonable people, I am sure, will differ on which ones are good and bad——

Mr. **Wittgraf**. Yes, sir.

Mr. **Rogers** [continuing]. But certainly there are some reforms that need to be put in place, and I am not sure they can wait until a new president is picked. How do you see that?

Mr. **Wittgraf**. Well, there are certain initiatives in response, for example, to the Conference Committee report, and initiatives undertaken by the staff based upon general instructions or direction from prior boards, particularly the board that preceded us, that are underway, particularly in regard to drug-related activity reporting and in regard to trying to get a declination of services assessment to see what the extent and the nature of unmet needs is or are.

But I—and I would like Mr. Erlenborn to speak to this, as well—I don't think that the 11 of us who now constitute the board are, beyond the initiatives that are underway, are necessarily prepared at this time, Mr. Rogers, to attempt to impose—even if we had the authority—to attempt to impose new regulations. I think until we feel that we know better where we believe Legal Services should be headed, that we are not going to be promulgating new regulations.

I think probably the one thing that the legislation and the Conference Committee report suggest to us is that we need especially to look at competitive bidding, and I think that that is probably the area that we will look first to see what, probably on a pilot basis, we as a board with our staff and working with the grantees can do to—be it broad-based or singular areas—to implement competitive bidding. At this point—and I will let Mr. Erlenborn speak, as well—but at this point I don't think that we as an 11-member board have any specific reforms in mind. Some have been suggested, but there are none on the table as far as we are concerned, Mr. Rogers.

Mr. **Erlenborn**. I would agree with that, that the board has not taken a position on any particular reform or set of reforms, although some of the items that are in the package that was offered as an amendment to the bill last year, such as timekeeping, can be addressed to a great extent currently under the authority that we have.

For instance, there is now a prohibition against the use of Legal Services grant funds by grant recipients for certain things, such as litigation relative to abortion. To be able to conform to those restrictions, the grantees have to keep books and records that would prove that they are in compliance, and I think that such things as timekeeping to a certain extent can be utilized in that process, even under the current authority that the board has.

Some of the other issues that were raised we cannot address, and I think they will perforce have to wait until a new authorization in which the Congress gives the appropriate direction and authority.

Mr. ROGERS. Well, we are sort of caught in a vicious circle here. You can't act until you are confirmed, and in a sense you can't get confirmed until you act, so I would hope that——

Mr. WITTGRAF. I am not sure that is consistent with Mr. Rudman's position, at least to the extent he speaks for the Senate. I think, as I indicated earlier, that regardless of what regulations or what regulatory changes we might attempt to make, if any, or what administrative changes we might attempt to make, such as Mr. Erlenborn suggested, I think that Senator Rudman and presumably Senator Kennedy do plan to go forward as soon as they can with confirmation. That is why I said earlier, hopefully confirmation is in the foreseeable future.

Mr. ROGERS. Well, I hope you are right. I desperately hope you are right.

The timekeeping requirement is one that I think most reasonable people would expect any agency—particularly a large law firm, which you really are—to do. I would hope that we could move on that one, as Mr. Erlenborn has suggested, forthwith, consistent with the authority that you think you have.

Of course, competitive bidding is one that we will probably have some differences up here on, especially on this Subcommittee, but for me the competitive bidding process makes for a better agency. It makes for a more responsive agency, and that is what we are all after, I think, is to get for the cheapest dollar, the most bang for the buck out there for the poor people that we are supposed to be trying to help with your services. So I would hope that at some point in time, that we could get on with the competitive bidding reform, although I guess you are saying to us you can't do that until you get the power to promulgate regulations, at least.

Mr. WITTGRAF. We are prepared to prepare, in anticipation of having then the authority.

CHILD SUPPORT CASES

Mr. ROGERS. I see. Well, I hope you will prepare well on that.

On the child support cases, I guess I have made my view on that one known and there is no point in belaboring it, but I would hope that you would not just write those things off, because in many cases you are the only source that a desperate person can turn to. In many cases, perhaps even most cases, prosecutors just won't fool with those cases.

The woman goes to the prosecutor and says, "I need help. The guy is not paying his child support. I can't afford a lawyer to go back and get a court order to reopen the divorce case, to enforce the support decree." Where can she turn?

Sure, the criminal process has been used, and effectively, to coerce those basically civil obligations. I did my share of them, hundreds, thousands of cases that I did, and collected millions of dollars, at the expense of clogging up the court's docket where we perhaps did not do justice to truly criminal cases which that docket is supposed to be reserved for. So that should not be the normal way we deal with basically enforcing divorce decrees, in the criminal courts. That is just not right.

But as a practical matter, in many, perhaps even most cases, Legal Services is the only place that a desparate woman and mother can turn to for help, and I would hope we would not turn our ear deafly to her. That would be criminal, in my book.

Any thoughts, further thoughts?

Mr. WITTGRAF. Not beyond, I guess, those I have expressed already, Mr. Rogers. Thank you.

Mr. ROGERS. Well, I saw a study a while back that found that we are spending much less time on those cases than we were 10 years ago. Are you familiar with it?

Mr. WITTGRAF. I am not, sir.

SPECIAL EMERGENCY FUNDS

Mr. ROGERS. Well, describe the special emergency funds you have requested for the hurricane and earthquake relief areas.

Mr. WITTGRAF. That category. It happens that in the two meetings we have had, February 12 and then again yesterday, March 27, that those matters have come before us. We have extended a few additional funds, to the extent they were available, nowhere near the amounts that were requested in this instance by the people from South Carolina and California, the places that the hurricane and the earthquake hit. We anticipate that, be they by acts of God or otherwise, that there will be inevitable emergency requests, and it is with that in mind and with the recent experience that we have had as board members that we included that additional $500,000 figure.

FY 1991 INCREASE

Mr. ROGERS. Now you are operating at a funding level in fiscal year 1990 of how much? $321 million, right?

Mr. WITTGRAF. That is prior to sequestration, I believe, Mr. Rogers.

Mr. ROGERS. Yes, $316 million.

Mr. WITTGRAF. With sequestration, yes.

Mr. ROGERS. Yes, with sequestration, and you are requesting a total of $343 million?

Mr. WITTGRAF. Yes, sir.

Mr. ROGERS. Over $316 million?

Mr. WITTGRAF. Yes, sir.

Mr. ROGERS. What is the percentage increase?

Mr. WITTGRAF. It would be approximately 6.85 percent on top of the $321 million, I believe. It would be more like 8.2 percent on top of the $316 million.

Mr. ROGERS. Well, in fact you are asking for an 8.2 percent increase.

Mr. WITTGRAF. Yes, sir.

Mr. ROGERS. That is a pretty good size increase in one year.

Mr. WITTGRAF. Yes, sir.

Mr. ROGERS. For what has been a very controversial agency.

Mr. **Wittgraf**. Yes, sir.

Mr. **Rogers**. Which has been flying as a wounded duck for several years.

Mr. **Erlenborn**. We are on the mend.

Mr. **Rogers**. Now the law school clinics, they do timekeeping, do they not? Aren't they under a timekeeping requirement?

Mr. **Wear**. Mr. Rogers, to my knowledge they do not. I should back up and say that some of our programs do keep time already. All of our programs keep time on cases that they intend to request a fee award from the court. The courts require a fairly exact system of timekeeping, or they simply don't award the fees, unless the court is satisfied that in fact the work was done in the manner that is laid out in the fee petition, so the legal services programs do have experience in keeping time and there are some programs that keep time on all cases.

The law school clinic grants are awarded competitively now, as opposed to the other grants that are not.

Mr. **Rogers**. Did I hear you say earlier to Mr. Smith, Chairman Smith, that you are increasing every element across the board by the same percent?

Mr. **Wear**. Approximately, Mr. Rogers. The monies in the M&A categories are a little hard to figure out exactly what the percentage increase is, because the M&A categories assume certain amounts of carryover. The amount of money for management and administration in fiscal year 1990 assumed a carryover of at least $1.7 million. The request for M&A for 1991 assumes a carryover of approximately $850,000, so if you measure it in terms of what was appropriated plus the carryover, the increase is somewhere in the neighborhood of 6 percent, but you can figure it a lot of different ways.

NEW ITEMS REQUESTED

Mr. **Erlenborn**. There are also two new items under category 3, M&A, competition and board initiatives. That competition, by the way, is meant to prepare the board and the corporation to be able to implement competitive bidding when we have the authority to do so, so this gives the corporation an opportunity to study that and be prepared. Special contingency funds is an item of $100,000 that was added by amendment to the budget yesterday when we adopted it, again to give the board some flexibility to meet unforeseen needs, so those are two additional items.

I might say, by the way, that M&A even with those additions and the lower carryover assumption, still amounts to something less than, slightly less than 3 percent of the total appropriation.

Mr. **Rogers**. Anything that you are suggesting a reduction in?

Mr. **Wear**. No, sir, we are not.

Mr. **Rogers**. Thank you, Mr. Chairman.

CHILD SUPPORT CASES

Mr. **Smith**. Well, with regard to the child support, I think you might want to extend in the record a little bit more about what your intentions are here and how you would separate that. I personally think that child abandonment is a much worse crime than writing a $21 check without sufficient funds. It involves tens of thousands of dollars of public funds in many cases. I would hope, and I think from your answers you are not intending to replace the actions that are available for some people, not for all.

Mr. WITTGRAF. Yes. It is a matter of filling gaps, I believe, Mr. Chairman.

[The following additional information was provided for the record by Mr. Wear:]

Mr. Chairman, I appreciate your recommendation, and thank you for the opportunity to expand my remarks on the greatest single need for legal services among poor people, the area of child support.

Let me go over some facts that illustrate the tremendous need for legal services by single-parent women who struggle to head households and raise children in poverty—poverty stemming to a great extent, from a lack of the child support payments to which these women are legally and morally entitled.

It is a fact that more than half of all American families in poverty today are headed by single women. And, Mr. Chairman, more than three quarters of custodial parents live below the poverty line, while only about one third of non-custodial parents are poor.

In 1986, the Census Bureau determined that of the 8.8 million American women who headed households, less than half of them received the amount of child support to which they were entitled. About 40 percent received no child support at all.

These facts become even grimmer in light of the Census Bureau's further determination that only 36 percent of black single mothers and 42 percent of Hispanic single mothers have obtained child support awards—while a full 71 percent of white single mothers have been awarded child support.

Mr. Chairman, there are those who argue that the need for child support is already being met by the national IV-D programs. But in many cases the IV-D program is ineffective. Even in those areas where it is not, it is important to note that the IV-D system does not actually represent poor mothers—it does not act as their advocates. Rather the IV-D attorneys represent the state agency.

Just last month we had the director of the IV-D program in Indianapolis—one of the most successful programs in the country—testify before our board of directors. He spoke eloquently of the tremendous gap in services between what the IV-D agencies can legally provide and what the poor women he sees every day need in terms of legal assistance. In fact, he even offered to provide offices, phones, equipment, and support staff if only we should send legal services attorneys to him—not to duplicate the work of his agency, but to represent the poor women he works with in ways from which his agency is statutorily enjoined. Other people argue that every state has a child support enforcement agency (CSE) that provides child support services, and that custodial parents who receive Aid to Families with Dependent Children (AFDC) are required to assign their child support payments to the CSE programs.

But again, Mr. Chairman, the facts show that only 23 percent of all child support payments nationally is collected by state CSE agencies. The rest—the other 77 percent—is collected by lawyers representing the custodial parent.

A House Ways and Means Committee report from this 101st Congress brings even greater perspective: in FY 1988 the percentage of AFDC cases in which a collection was made was 10.8 percent; for non-AFDC cases, a collection was made in 29.9 percent of the cases.

The bottom line, Mr. Chairman, is twofold: first of all, the staggering need for legal services in the child support area is not currently being met, and the legal services programs have an essential role they can and should play. Secondly, the legal services attorneys, as representatives of clients, rather than of the state, have far greater flexibility to actually meet the specific needs of the women they would serve. This second point is immediately apparent when you realize that a custodial parent with an attorney can seek an award through the courts in which she can contest the father's self-reporting of income and bring evidence concerning special needs of her children. On the other hand, women who seek awards through IV-D agencies usually do not see attorneys; in most states, a parent's only contact is with a caseworker. Naturally, the state-won awards are, on average, much smaller than those obtained through other means.

And remember, there are a whole host of legal problems, ranging from custody and visitation, to abusive spouses, to special tenant needs in which state-sponsored collection agencies have no authority to act. To protect her rights and provide the best chance for her family to escape the grip of poverty, a single parent needs a lawyer to represent her.

Consequently, Mr. Chairman, it is imperative that the legal services programs find new and innovative ways to focus resources in this area.

Mr. SMITH. Yes, and in some cases, as you say, they are entitled to 125 percent instead of 100 percent, so the criminal law would only apply up to the 100 percent, anyway, or the amount of public assistance.

IOLTA ACCOUNTS

Then with regard to IOLTA, we keep hearing—it keeps changing, as a matter of fact—about the amount of IOLTA funds that are available. Do you have access to any records that show what states are providing IOLTA funds and in what amounts?

Mr. WITTGRAF. It is my understanding, Mr. Chairman, that within recent weeks the last two states have come on board, and I believe all 50 states do now in one form or another have IOLTA funds that are being promulgated. We did receive testimony Monday morning from a gentleman named Robert Rudy, who spent some time in Iowa working for ISPRG, if you recall what ISPRG was in the 1970s—Iowa Student Public Research Group out of Ames—who is now I believe the national vice president of the national IOLTA organization.

He indicated—and either Mr. Wear or Mr. Erlenborn can correct me on this—I believe he indicated that more than $100 million will be generated in IOLTA funds in this calendar year, and that of that amount some $50 to $60 million will go to support the efforts of Legal Services Corporation grantees, as one source of their funds, in addition to the actual Legal Services Corporation funds.

Mr. SMITH. Now if we could have a breakdown of that as to states?

Mr. WITTGRAF. I do not, and I am not sure that Mr. Rudy gave us that, but I suspect that with Mr. Rudy and his colleagues' assistance, that we will be able to obtain that for the Subcommittee.

Mr. SMITH. I think it would be good to have in the record the breakdown going back maybe 3 or 4 years, per State.

Mr. WITTGRAF. Yes, sir.

[The information follows:]

LEGAL SERVICES CORPORATION
1988 ACTUAL NON-LSC PRIVATE & MISCELLANEOUS FUNDING SUMMARY
BY STATE *

STATE	UNITED WAY	FOUNDATION GRANT	BAR ASSOCIATION	IOLTA	ATTY. FEE AWARDS	CARRYOVER NON-LSC	PUBLICATION INCOME	OTHER	TOTALS
ALABAMA	$0	$0	$0	$0	$0	$0	$0	$50	$50
ALASKA	0	0	0	10,250	103,386	184,277	0	0	297,913
ARIZONA	183,262	0	8,750	1,312,439	500	55,071	0	137,292	1,697,314
ARKANSAS	0	5,440	400	89,500	0	52,925	0	23,070	171,335
CALIFORNIA	681,556	1,774,045	212,227	10,382,675	892,603	1,329,631	35,872	2,114,235	17,422,844
COLORADO	498,469	123,786	30,775	422,000	35,197	62,744	0	46,037	1,219,010
CONNECTICUT	387,430	110,045	9,500	548,710	170,764	0	10,211	286,206	1,522,866
DELAWARE	197,950	0	0	292,593	6,530	42,705	0	29,753	569,531
DISTRICT OF COLUMBIA	10,102	642,000	34,390	91,515	0	263,007	108,887	233,807	1,383,708
FLORIDA	87,343	13,565	357,551	1,894,730	48,611	677,521	0	213,799	3,293,120
GEORGIA	243,778	155,410	268,314	250,000	0	145,717	5,698	7,580	1,076,497
GUAM	0	0	750	0	16,433	417	0	8,193	25,793
HAWAII	107,157	0	0	72,353	3,700	70,983	0	11,400	265,593
IDAHO	0	0	0	81,075	1,946	23,557	0	27,219	133,797
ILLINOIS	460,861	385,011	19,201	296,000	157,444	366,156	124,412	319,025	2,128,110
INDIANA	121,898	0	0	0	0	4,009	0	48,510	174,417
IOWA	180,865	57,638	14,292	211,437	3,750	0	0	4,014	471,996
KANSAS	180,699	0	86,983	56,000	33,669	0	1,880	85,746	444,977
KENTUCKY	263,525	0	36,770	18,375	2,235	65,446	0	4,784	391,135
LOUISIANA	16,450	0	12,300	23	0	7,115	0	9,656	45,544
MAINE	45,377	20,194	0	135,671	0	0	0	0	201,242
MARYLAND	324,498	25,000	0	795,937	159,565	0	0	16,029	1,321,029
MASSACHUSETTS	809,054	574,958	49,096	647,104	194,051	788,255	307,963	1,165,231	4,535,712
MICHIGAN	657,010	16,000	96,555	0	18,489	160,955	0	72,631	1,021,640
MICRONESIA	0	0	0	0	0	671	0	0	671
MINNESOTA	150,378	176,320	9,186	932,627	105,353	464,219	0	91,853	1,929,936
MISSISSIPPI	0	0	0	112,607	0	5,897	0	1,000	119,504
MISSOURI	539,712	57,425	1,000	351,173	67,295	2,412	0	124,753	1,143,770
MONTANA	0	0	0	63,750	877	16,225	0	7,882	88,734
NEBRASKA	54,088	17,700	4,500	160,000	0	109,398	250	157,415	503,351
NEVADA	74,879	2,500	0	50,030	6,368	935	0	82,829	217,541
NEW HAMPSHIRE	186,319	6,513	0	589,543	6,262	0	0	18,447	807,084
NEW JERSEY	368,317	3,350	835	0	7,124	317,392	2,822	358,138	1,057,978
NEW MEXICO	505	0	0	126,927	216	81,235	0	29,384	238,267
NEW YORK	297,536	327,080	15,739	886,970	92,417	420,029	1,405	869,399	2,910,575
NORTH CAROLINA	260,501	277,503	15,264	1,174,440	2,483	86,409	0	53,125	1,869,725
NORTH DAKOTA	0	61,529	0	0	0	32,427	0	39,547	133,503
OHIO	1,122,063	37,750	9,500	3,072,160	255,827	2,158,690	0	492,900	7,148,690
OKLAHOMA	156,827	0	23,047	93,480	0	0	0	11,682	285,036
OREGON	236,271	5,000	1,810	273,900	60,583	553,703	870	106,063	1,238,200
PENNSYLVANIA	40,784	25,620	104,980	0	672,238	190,567	0	334,942	1,369,131
PUERTO RICO	0	0	0	0	0	0	0	1,000	1,000
RHODE ISLAND	69,447	7,500	0	392,742	0	0	0	0	469,689
SOUTH CAROLINA	8,000	0	0	299,539	0	28,438	0	18,990	354,967
SOUTH DAKOTA	0	0	4,783	22,300	5,431	28,968	0	2,086	63,568
TENNESSEE	186,248	35,027	5,189	66,279	0	18,013	235	105,459	416,450
TEXAS	68,803	0	38,178	472,558	12,209	328,609	0	67,678	988,035
UTAH	0	0	0	29,000	0	0	0	13,194	42,194
VERMONT	0	0	0	141,667	17,750	0	0	23,574	182,991
VIRGIN ISLANDS	15,000	0	0	0	0	0	0	0	15,000
VIRGINIA	188,271	875	0	548,695	94,686	87,804	0	39,551	959,882
WASHINGTON	208,922	5,000	4,970	1,735,501	160	226,073	1,859	352,579	2,535,064
WEST VIRGINIA	4,159	2,500	0	0	1,000	20,830	0	30,308	58,797
WISCONSIN	19,980	2,700	1,500	746,928	500	30,875	0	10,196	812,679
WYOMING	0	0	0	0	3,150	4,300	0	4,300	11,750
NATIONAL TOTALS	$9,714,294	$4,952,984	$1,478,335	$29,951,205	$3,260,780	$9,513,412	$602,344	$8,312,541	$67,785,915

SOURCE: FORM H-3(a) OF THE 1989 LSC APPLICATION FOR FUNDING.

* FOR A MORE DETAILED ANALYSIS, BY PROGRAM, PLEASE REFER TO APPENDIX H.

Mr. **Wear**. Mr. Chairman.

Mr. **Smith**. Yes.

Mr. **Wear**. As part of the corporation's funding application that goes out to the current grantees, that information was collected for calendar year 1988. We don't have the information prior to that time, but we do know for each program that applied for funds last year from the corporation, we know how much IOLTA money they received during calendar year 1988, and we can make that available to the committee.

Mr. **Smith**. By state?

Mr. **Wear**. Yes, sir, it is by program and by state. The programs are grouped according to state, and we can give you numbers by state.

Mr. **Smith**. You don't have anything to compare that with, then. You don't have 1989 yet, and you don't have 1987 to compare it with.

Mr. **Wittgraf**. I believe Mr. Wear is referring to the records that are available in the offices of the Legal Services Corporation. I would like to think that the national IOLTA organization, in its offices, would be more apt to have the kind of information that you are seeking.

Mr. **Smith**. Yes. As you indicated, not all of it goes to Legal Services purposes.

Mr. **Wittgraf**. Yes, sir, that is correct. That is correct.

FY 1991 APPROPRIATIONS/AUTHORIZATION OUTLOOK

Mr. **Smith**. Well, I want to say, with regard to your budget request, it has been rather difficult over the years. In 1981 you had the same appropriation you got last year. I don't know any other agency in Government that had the same appropriation last year it had back in 1981. In the meantime you went down and back up.

I know this $343 million seems like a substantial increase in one year. However, I would point out that it is only 6 percent more than you had 9 years ago, looking at it in a different way. In the meantime, however, hopefully they have been able to get some money from other sources, but also I am afraid that—maybe we will have more information a year from now, when we get some more information from the census—but I am afraid the number of people to be served has increased very substantially in that period of time.

With regard to new regulations, from what you say and from what I know, I would anticipate that—for your edification and for your information—you won't be authorized by the time we go to the House floor with this bill. Therefore, we will not put money in the bill at the time the bill goes through the House. We will intend to write, in effect, the appropriation, and if necessary the regulations, in conference.

In the meantime, if there is some new regulation that is needed and we don't have an authorization bill by the time we get through conference—and I don't know when that will be, that could even be August—but if there is a regulation that is needed and there is not a new authorization bill by that time, if we were informed what it would be, why, we could consider that in conference and maybe write that in, as a temporary matter anyway, awaiting an authorization bill. Hopefully we will get an authorization bill before we go home this fall. I believe we will. I really do. For the first time in several years, I think we will.

Mr. **Rogers**. They tell me people from Iowa are eternally optimistic. [Laughter.]

Mr. **Smith**. Well, if we can just get it through the House, and know that the people's branch worked their will, then we could incorporate that as we did one other time, as if it were an authorization bill, and that would be of some help.

At this point I don't see, under the fluid situation we have, I don't see any need to go into any more detail than we have today, but we will be in constant touch with you.

Any more questions, Mr. Rogers?

Mr. **Rogers**. No.

Mr. **Smith**. Thank you.

[The following questions were submitted by Chairman Smith to be answered for the record:]

Q: Provide for the Record a list of the new Board nominees and some information on their qualifications.

A:

THE LEGAL SERVICES CORPORATION BOARD OF DIRECTORS 1990

President George Bush recess appointed the current members of the Board of Directors of the Legal Services Corporation on November 30, 1989, and January 23, 1990. In February 1990 the board elected George W. Wittgraf chairman and John N. Erlenborn vice-chairman.

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JOHN F. COLLINS, of Massachusetts, is a Trustee of the MITRE Corp. and a former partner in the Brown, Rudnick, Freed & Gesmer law firm in Boston. Mr. Collins served as Mayor of Boston from 1960-1968.

HOWARD H. DANA is a partner in the law firm of Verrill & Dana in Portland, ME. Mr. Dana was a member of the LSC Board of Directors in 1982.

JOHN N. ERLENBORN is a partner in the Washington, DC, law firm of Seywarth, Shaw, Fairweather & Geraldson. Mr. Erlenborn serves on the Board of Directors of the U.S. Department of Labor Advisory Council on Employee Welfare and Pension Benefit Plans, and was a member of the House of Representatives from the State of Illinois from 1965-1985. Mr. Erlenborn is Vice-Chairman of the LSC Board of Directors.

LUIS GUINOT JR., of Virginia, is a partner in the law firm of Kelley, Drye & Warren in Washington, DC. Mr. Guinot serves as the Administrator of the Office of the Commonwealth of Puerto Rico in Washington, DC.

BLAKELEY HALL is an attorney with the Law Offices of Ralph M. Hall in Rockwall, TX. Mr. Hall has been a member of the LSC Board of Directors since November 1988.

JO BETTS LOVE is from Aberdeen, Mississippi. She has worked with senior citizens and the handicapped throughout her adult life. Mrs. Love has four children and six grandchildren.

GUY V. MOLINARI, an attorney, is the Staten Island Borough President. Mr. Molinari was elected to the New York State Assembly in 1974 and the U.S. House of Representatives in 1980.

PENNY L. PULLEN is the Illinois House Minority Leader. Ms. Pullen has served as a State Representative of Illinois since 1976.

XAVIER L. SUAREZ is a partner in Miami law firm of Tew, Jorden & Schulte. Mr. Suarez has been the Mayor of Miami since 1985.

GEORGE W. WITTGRAF, of Cherokee, IA, is a partner in the law firm of Sayre & Wittgraf and is on the Board of Directors of the Iowa State Bar Association Volunteer Lawyers Project. Mr. Wittgraf is Chairman of the LSC Board of Directors.

JEANINE E. WOLBECK and her husband, Don, run a dairy farm in Sauk Centre, Minnesota. Mr. and Mrs. Wolbeck have eight children.

Proposed Budget Increase

Q: You are proposing an increase of $26,475,000 above the FY 1990 funding level. I understand that the Board of the Corporation reached a decision on the budget request only yesterday. Why did it take so long for the Corporation to decide on a budget for FY 1991?

A: The Legal Services Corporation Board of Directors was not appointed by President Bush until January 23, 1990. At the first meeting of the new Board on February 12, 1990, the Board Members decided that they could not properly decide on a FY 1991 budget mark for the Corporation until they had received sufficient information to fully deliberate on the merits of the various budget proposals that were before the Board. Therefore, the Board Members scheduled a second meeting, during which they heard a full day of public testimony from all interested parties about all the issues concerning the Federal legal services program. This meeting could not be scheduled until March 26 and 27. The Board understands that this delay has imposed some inconvenience, yet it feels justified because of the importance of the decision it had to make, and the need to submit a budget proposal it can defend with confidence before Congress.

Q: There is no detail submitted with your budget request, and it has been impossible for the Committee to do any analysis of your request before this hearing. What areas of the Corporation's activities have been increased in your FY 1991 request, and what areas would be reduced?

A: The attached schedule details the Corporation's budget request for FY 1991 and indicates for each budget item the increase requested over both the FY 1990 appropriated level and the amount actually funded after sequestration. As the schedule shows, the Corporation's Board proposes to increase each budget line by 6.2 percent over the FY 1990 appropriated level (7.7 percent over the sequestered level). No budget line has reduced or eliminated. Before FY 1990, the Corporation had not received a major increase in funding since FY 1981. For the last three years the Corporation's appropriation level has remained at levels between $305 to $308 million, until FY 1990 when the Corporation received an increase to $321 million. This level was subsequently reduced to $316 million because of sequestration. The Corporation's Board believes that a FY 1991 appropriation level of $343 million will counter the real dollar reductions experienced by the legal services program as result of inflation.

The Corporation has also requested funding for three new budget items. First, the Corporation has received numerous requests for special emergency assistance from programs that suffered substantial losses from recent disasters. Programs in California were hit hard by earthquake damage, and programs in North Carolina, South Carolina, Puerto Rico and the Virgin Islands sustained major damage from Hurricane Hugo. The Corporation was unable to help many of these programs because most of its FY 1990 funding was already obligated. The Corporation proposes, therefore, to reserve $500,000 to provide emergency assistance to those programs that require it in the event of future emergencies.

Secondly, since the Corporation's FY 1990 appropriations act requires the Corporation, upon the confirmation of a new Board of Directors, to develop and implement a competitive bidding system for legal services grants, the Corporation requests $500,000 to fund this effort and any other new initiatives or demonstration projects that the Board deems necessary.

Finally, the Corporation requests $100,000 in special contingency funds to enable the Board to address any additional contingencies that might arise during the fiscal year.

Q: How much of the increase represents adjustments for inflation and other mandatory items such as cost of living pay adjustments? Please provide a breakdown of these for the Record.

A: The attached schedule discussed above sets out the proposed increase for each budget line. As noted, an across-the-board increase of approximately 6.2 percent over the FY 1990 appropriation level (7.7 percent over the sequestration level) has been requested for the Corporation. There is a small additional increase for the Management and Administration budget line because in past years Congress has appropriated a smaller amount for M & A than actually budgeted by the Corporation since carryover funds were available. It takes approximately $11 million to run the Federal legal services program each year; the FY 1990 sequester level for the Corporation was $8.6 million. Since sufficient carryover will not be available in FY 1991 to meet normal annual operating costs, the Corporation requests $10 million for M & A for FY 1991. This figure does include the same 6.2 percent increase reflected in each budget line, and an additional $900,000 to permit the Corporation to meet its expenses.

Q: How much of the increase proposed for FY 1991 represents program increases?

A: Eighty-seven percent of the proposed increase for the Legal Services Corporation will go to basic field programs for direct delivery of legal services to the indigent. Five percent of the increase will go to support centers that provide support or training for the direct delivery programs.

Declination of Representation Report Form

Q: I understand that the Corporation is about to promulgate a revised Declination of Representation Report Form (DORR). Why is it necessary to issue a new form, and what information do you expect to collect with this new form?

A: The first form had flaws which had to be corrected. For instance, there were questions about the age and ethnicity of the applicant who was turned away. It is impossible to ask such questions of a person and then decline to take his or her case. Also, their report was to be submitted on a monthly basis, which upon review was deemed to be an unnecessarily frequent reporting burden on the programs.

The Corporation has a great deal to gain from information which will be provided through the collection of this data. In the past, there has been absolutely no measure of client demand for legal services. So-called "needs studies", which have purported to measure demand for legal services, have employed such flimsy methodology that their results are generally useless from an empirical standpoint.

For instance, a survey in Massachusetts asked respondents if they had cockroaches in their homes, and if they answered affirmatively, the study concluded that this meant they had "an unmet legal need." The latest American Bar Association's "National Civil Legal needs Survey" employed similar slipshod methodology. One of the questions on its survey was "Have you ever had a serious disagreement with a landlord, or with a seller of goods or services, or with a creditor?" Certainly most Americans of adult age would answer "yes" to this question, but it tells us nothing about unmet legal needs. Therefore, though the new DORR form should in no way be viewed as a comprehensive picture of total demand for legal services, it may be the best measure yet of actual client demand (when coupled with the existing CSR, which measures cases served). This will be especially true when anomalies in local client demand are taken into account. The information provided will be invaluable in helping the Corporation better serve the needs of poor clients.

Q: Will the new form increase reporting costs of the field programs and impose an additional reporting burden on the local programs?

A: The new reporting format will be a computerized spreadsheet, the software for which has been provided to the programs by the Corporation. Although this will require programs to report data which they have not been required to in the past, the Corporation has learned that many programs already keep some sort of records on declinations. Also, with the computerized format provided, additional time and expense required for programs to file the report should be minimal. In addition, the reporting interval has been extended to a quarterly format.

Q: Did the Corporation consult with local programs concerning revisions to the form?

A: Most of the revisions made were the direct result of input from field programs. LSC received dozens of comments and suggestions, in verbal and written form, from field programs across the country. In addition, Corporation staff met with representatives of the National Legal Aid and Defender Association (NLADA) and some program executive directors to discuss revisions in the form.

Q: What alternatives are available to meet the Corporation's needs for information without imposing additional costs or additional reporting requirements on local programs?

A: Unfortunately, no one has suggested a better alternative to the current DORR form. Although NLADA has offered to conduct some more "needs surveys," there is no proposed alternative which can supply information with the degree of accuracy the DORR can provide. Needs surveys fall terribly short in many areas, most importantly in differentiating between a "need" and a "want" or even a perceived "want." Because demand for a free good is, in theory, infinite, the DORR provides the only measure of actual demand (that is, people who take action to express a demand, through a phone call or a visit to a legal aid office).

Carry-over of Funds from FY 1989

Q: The FY 1990 conference report assumed that $1,700,000 of funds carried over from FY 1989 would be available to the Corporation for management and administration. What was the total amount carried over from FY 1989 and what were the sources of these carry-over funds.

A: The FY 1989 carryover is $4,068,391. A copy of the 1989 year-end Consolidated Operating Budget is enclosed. It indicates the budget categories where the committed and uncommitted carryover is derived.

Q: How does the Corporation propose to use any of the amounts that exceed the $1,700,000, and when will a reprogramming be submitted to the Committee detailing the use of those funds.

A: Of the $4,068,391 in carryover funds, $2,039,321 is committed to: (1) fund month-to-month grantees; (2) fund a law school grant; (3) funds earmarked by the Legal Services Board of Directors for the implementation of timekeeping by the local legal service programs; and (4) funds for the production of materials to be used for training of board members of local legal services programs.

On March 27, 1990, the Legal Services Corporation Board of Directors completed deliberations on the FY 1989 uncommitted carryover of $2,029,070. Of that amount, $1,982,070 was allocated for management and administration. The remaining $97,000 was allocated during the February 12, 1990, board meeting to fund emergency grants requested from the geographic areas which were devastated by Hurricane Hugo and the California earthquake.

A reprogramming notice was forwarded April 5, 1990,_which details the source of the carryover funds.

Q: How much carry-over is projected for FY 1990 into FY 1991.

A: The Corporation has estimated a minimum carryover of $854,000.

TUESDAY, APRIL 3, 1990.

SECURITIES AND EXCHANGE COMMISSION

WITNESSES

RICHARD C. BREEDEN, CHAIRMAN
LAWRENCE H. HAYNES, COMPTROLLER
KENNETH FOGASH, DEPUTY EXECUTIVE DIRECTOR
LINDA FEINBERG, EXECUTIVE ASSISTANT
JOHN PENHOLLOW, DIRECTOR, OFFICE OF EDGAR MANAGEMENT

Mr. EARLY [presiding]. The Committee will come to order.

The first item we will consider is the fiscal year 1991 budget request for the Securities and Exchange Commission. The Fiscal Year 1991 request is $192,385,000. This amount represents an increase of $25,752,000 above the amount currently available for fiscal year 1990 after sequestration. We will insert the budget justification submitted in support of this request in the record at this point.

[The justification follows:]

U. S. SECURITIES AND EXCHANGE COMMISSION

MCMXXXIV

BUDGET ESTIMATE
FISCAL 1991

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

1990	Appropriation (P.L.101-162)	$168,707,000
	Less: Sequestration	-2,074,000
	Sequestered appropriation	$166,633,000
1991	Proposed change	+ 25,752,000
	Proposed appropriation	$192,385,000

APPROPRIATION LANGUAGE
SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, ($166,633,000) $192,385,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 to host a conference of the International Organization of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses.

60 Stat. 810; 5 U.S.C. 551-59, 601-12, 701-06, 1305, 3105, 3109, 3344, 5362, 7521; 11 U.S.C. 101-151326; 15 U.S.C. 77a-77bbbb, 78a-78kk, 78aaa-111, 79--79z-6, 80a-1--80a-52, 80b-1--80b-21; 44 U.S.C. 3501-3520; Pub. L. No. 96-433; Pub. L. No. 96-477; Pub. L. No. 97-303; Pub. L. No. 97-444).

STATUTORY AUTHORITY

The Securities and Exchange Commission was created by the Securities Exchange Act of 1934 as an independent, quasi-judicial agency. It administers a group of statutes in the area of securities and finance, which seeks to protect the investing public by providing full disclosure, by regulating the nation's securities markets and by preventing and policing fraud and malpractice in the securities and financial markets. These statutes are, in addition to the 1934 Act, the Securities Act of 1933, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. By terms of Chapter 11 of the Bankruptcy Code, the Commission also participates in the Federal courts in certain corporate reorganization proceedings in which there is a substantial public interest. The Securities Investor Protection Act of 1970 gives the Commission certain oversight and other responsibilities with respect to the Securities Investor Protection Corporation.

1. Securities Act of 1933 - The 1933 Act requires issuers of securities to provide investors with financial and other information concerning new and outstanding issues of securities which are offered for public sale by issuers, parties with a controlling interest in the issues, and others. The Act also prohibits misrepresentation, deceit, and other fraudulent acts and practices in the offer and sale of securities.

2. Securities Exchange Act of 1934 - The 1934 Act requires certain issuers of publicly-traded securities to file registration applications, proxy materials, and annual and other reports with national securities exchanges and with the Commission. Persons directly or indirectly acquiring the beneficial ownership of more than five percent of any registered class of equity security must furnish reports containing certain information. Persons initiating, supporting or opposing tender offers with respect to any registered class of equity security are also subject to the Act and to Commission rules and regulations. The Act details a regulatory and reporting pattern for securities transactions by directors, officers, and principal stockholders. Registration with the Commission is also required for self-regulatory organizations, including securities exchanges, national securities associations, and clearing agencies. Securities brokers and dealers engaged in interstate commerce are regulated by the Commission and by the self-regulatory organizations under the Act. The Securities Act Amendments of 1975 amended the Securities Exchange Act in substantial respects, and expanded the Commission's regulation and oversight of the securities industry:

(a) The 1975 amendments directed the Commission to facilitate the establishment of a national market system, linking all markets for qualified securities by modern data processing and communications facilities. To achieve that objective, the Commission was directed to help create a national market system and to regulate the activities of its participants. In addition, the amendments directed the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions, and eliminate the physical transfer of stock certificates between parties. The amendments also imposed registration and other regulatory requirements upon securities information processors and transfer agents.

(b) The amendments strengthened the Commission's regulatory authority over self-regulatory bodies (e.g., securities exchanges and national securities associations and their members). The Act now requires Commission approval of rules proposed by self-regulatory organizations and grants to the Commission the power to review denials of access or membership as well as disciplinary actions. Furthermore, brokers and dealers, as well as other entities, are obliged to report information on missing, lost and stolen securities, while officials of registrants and other personnel are subjected to fingerprinting requirements.

(c) The amendments required institutional investment managers to file periodic reports, unless otherwise exempted, disclosing particular facts with respect to their holdings, and to make public reports on the management of accounts consisting of equity securities with substantial market value.

(d) The amendments set forth a comprehensive pattern for the registration and regulation of bank and non-bank municipal securities dealers by the Commission. The Municipal Securities Rulemaking Board was established to prescribe rules in regard to designated areas of concern for the municipal securities industry and its professionals.

The Insider Trading Sanctions Act of 1984 ("ITSA") also made additional significant amendments to the 1934 Act. ITSA authorizes the Commission to seek a civil penalty of up to three times the profit gained or loss avoided as a result of insider trading transactions. (Authority to obtain injunctive and other equitable relief against such conduct is not affected.) ITSA also increased the maximum fine for a criminal violation of the 1934 Act from $10,000 (established in 1934) to $100,000. In addition, the Criminal Fine Enforcement Act of 1984, increased the maximum fines for federal criminal offenses. The effect of the Act is to increase the criminal fines for insider trading and most other securities law violations to $250,000 for individuals and $500,000 for organizations, or twice the pecuniary gain to the offender or loss to the victim, if that amount is higher. ITSA also: (1) prevents circumvention of existing prohibitions against insider trading by explicitly prohibiting unlawful conduct in derivative securities such as options; (2) adds commodities law violations as a basis for statutory disqualification under the 1934 Act; (3) extends the Commission's authority to bring administrative proceedings to remedy violations of Section 14 of the 1934 Act; and (4) amends Section 15(c)(4) of the 1934 Act to clarify the Commission's authority to proceed administratively against officers or directors or other individuals who cause a failure to comply with Sections 12, 13, 14, or 15(d) of that Act, as well as against the issuer.

The Government Securities Act of 1986, signed into law on October 28, 1986, requires previously unregistered government securities brokers and dealers to register with the Commission. Currently registered brokers and dealers and financial institutions are required to file a notice with their appropriate regulatory agencies. Under the Act, the Department of the Treasury has specific rulemaking authority with respect to certain aspects of the government securities market. The Commission has inspection and enforcement authority over government securities brokers and dealers except for those institutions reporting to their appropriate regulatory agencies.

The Insider Trading and Securities Fraud Enforcement Act of 1988 was signed into law on November 11, 1988 (Pub. L. No. 100-704). The 1988 Act amends the 1934 Act to, among other things: make securities firms liable, under certain circumstances, for insider trading by their employees; increase maximum jail terms for insider trading violations from 5 years to 10 years; raise maximum criminal fines for insider trading violations from $100,000 to $1 million for individuals and $2.5 million for entities; strengthen private rights of action related to insider trading; and provide for bounties for insider trading informants. This Act also requires brokers and dealers and investment advisers to establish reasonable policies and procedures to prevent the misuse of material, non-public information by their firm, or any person associated with it; and amends the 1934 Act to permit the Commission to conduct investigations and to provide assistance to foreign securities authorities in connection with foreign securities violations. Finally, subject to funds being appropriated for this purpose, the Act provides for a $5 million study by the Commission of the adequacy of the federal securities laws.

3. Public Utility Holding Company Act of 1935 - This Act regulates holding companies controlling electric and gas utilities respecting: physical integration of public utility and related properties of holding company systems and simplification of financial and corporate structures of those systems; financing activities, acquisitions and dispositions of securities and properties, accounting practices, and servicing arrangements of holding company systems; and the rights of persons affiliated with a public utility to acquire securities of other public utilities.

4. Trust Indenture Act of 1939 - The rights and interests of purchasers of debt securities issued under mortgage indentures and sold publicly are safeguarded through the protective provisions of this Act. The Act also requires that the indenture trustee shall be "independent" and free of any interest which might conflict with the proper exercise of its duties.

5. Investment Company Act of 1940 - This Act requires investment companies to register with the Commission and subjects their activities to regulation by the Commission. This regulation includes oversight of the composition of boards of directors, capital structure, and transactions with affiliated persons. The Act was amended by the Investment Company Amendments Act of 1970 to provide additional protection for investors. One of the

principal amendments specifies that an investment adviser has a fiduciary duty with respect to the receipt of compensation from an investment company and provides that the Commission and shareholders may initiate legal action for court enforcement of this duty. The 1970 amendments also authorize the Commission, in conjunction with the National Association of Securities Dealers, to regulate charges levied in connection with sales of investment company shares. The Commission is empowered to promulgate rules dealing with problems such as insider trading in an investment company's portfolio securities, the establishment by investment companies of codes of ethics, and the plans developed by sponsors and other sellers to carry out their refund obligations. In addition, the 1970 amendments give the Commission new authority to institute administrative proceedings to bar persons who have violated the federal securities laws from the investment company business. The Small Business Investment Incentive Act, enacted in 1980, further amended this Act to remove certain inappropriate regulatory burdens on venture capital companies engaged in furnishing capital to small businesses.

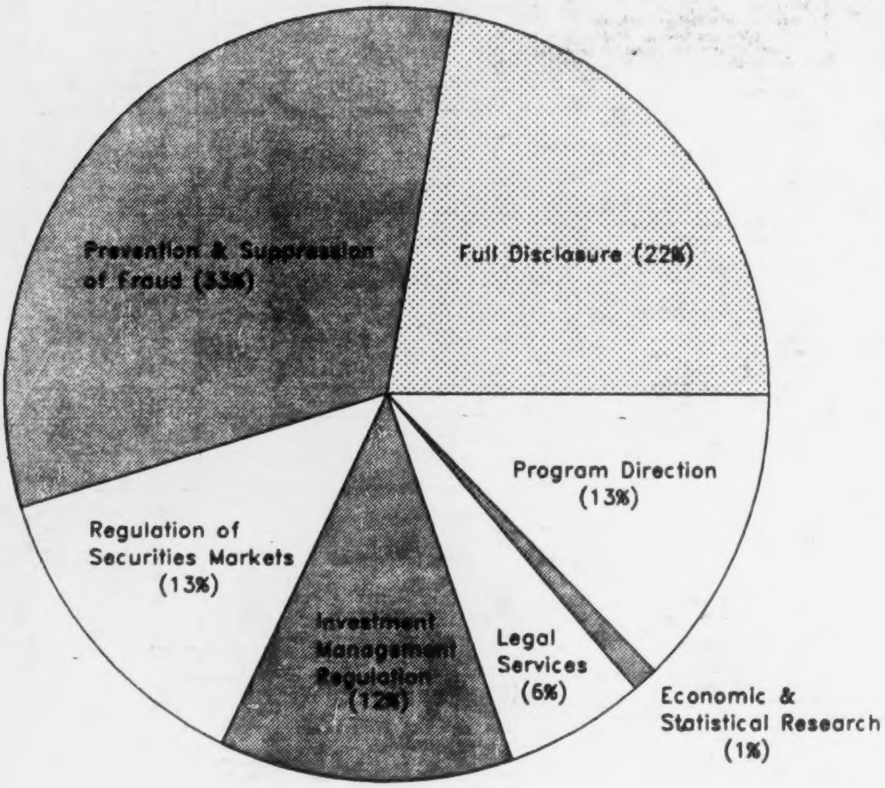
6. Investment Advisers Act of 1940 - Persons who engage in the business of advising others with respect to their securities transactions must register with the Commission. This Act prohibits certain kinds of fee arrangements, prohibits fraud, and requires disclosure of any conflicts of interest the adviser may have in transactions executed for his clients. Amendments to this Act in 1960 provided the Commission additional authority to require investment advisers to keep books and records, to provide for regular and periodic inspections of registered investment advisers, expanding the power for denial or revocation of registration of investment advisers, and to issue rules and regulations which prohibit fraudulent, deceptive, and manipulative practices by investment advisers. Further amendments to this Act in 1970 removed exemptions for investment advisers whose only clients are investment companies registered under the Investment Company Act and with respect to contracts of investment companies with registered advisers. These amendments also strengthened disciplinary controls over investment advisers, making them similar to the provisions in the Securities Exchange Act of 1934 relating to disciplinary controls over broker-dealers.

7. Bankruptcy Code - Chapter 11 provides a comprehensive procedure for the rehabilitation of financially distressed companies. The Commission participates in selected bankruptcy cases to protect the interests of public investors.

8. The Securities Investor Protection Act of 1970 - The Securities Investor Protection Act of 1970 created the Securities Investor Protection Corporation ("SIPC"), which provides protection for the funds of customers of broker-dealers in the event of liquidation. The Commission is required to review and approve proposed changes to the bylaws and rules of SIPC and may require SIPC to adopt, amend, or repeal any SIPC bylaw or rule. In addition, the Commission may make loans to SIPC in the event of a shortfall in the SIPC fund used to pay customer claims. The Commission may participate in any proceeding brought by SIPC for the protection

of customers. In addition, in the event that SIPC refuses to commit funds or otherwise to act for the protection of customers, the Commission may seek a court order requiring SIPC to discharge its obligations. Finally, the Commission may examine SIPC, require SIPC to submit such reports and records as the Commission considers necessary, and submit comments to be transmitted with SIPC's annual report to the President and Congress.

FY 1991 Positions by Major Program



U.S. Securities and Exchange Commission
ACTUAL COSTS FOR 1989, PROGRAM FOR 1990, AND ESTIMATE FOR 1991

	1989 Actual		1990 Estimate		1991 Estimate	
	Positions	Aggregate of Salaries	Positions	Aggregate of Salaries	Positions	Aggregate of Salaries
Full Disclosure						
Corporation Finance	289		305		317	
Applications and Reports Services	77		81		81	
Consumer Affairs & Information Services	22		23		23	
Chief Accountant	22		24		26	
Regional Offices	63		63		63	
Electronic Filing	49		68		68	
Sub-Total	522		564		578	
Prevention and Suppression of Fraud						
Enforcement	267		277		314	
Office of International Affairs	0		8		13	
Applications and Reports Services	11		11		11	
Consumer Affairs & Information Services	15		16		19	
Regional Offices	459		470		488	
Sub-Total	752		782		845	
Regulation of Securities Markets						
Market Regulation	137		154		169	
Applications and Reports Services	13		13		19	
Regional Offices	128		142		154	
Sub-Total	278		309		342	
Investment Management Regulation						
Investment Management	125		141		152	
Applications and Reports Services	19		21		21	
Regional Offices	113		136		150	
Sub-Total	257		298		323	
Legal Services						
General Counsel	102		115		124	
Administrative Law Judges	7		7		7	
Regional Offices	23		23		23	
Sub-Total	132		145		154	
Economic & Statistical Research						
Economic Analysis	27		27		28	
Sub-Total	27		27		28	
Program Direction						
Executive Staff	34		47		47	
Inspector General	5		7		7	
Executive Director	19		22		22	
Secretary	19		20		20	
Comptroller	30		30		30	
Personnel	33		33		33	
Information Systems Management	80		85		87	
Administrative Services	71		72		72	
Public Affairs	8		10		10	
Sub-Total	299		326		328	
Headquarters Total	1,481		1,617		1,720	
Regional Office Total	786		834		878	
GRAND TOTAL - AUTHORIZED	2,267		2,451		2,598	
Permanent Annual Salary Rate		$91,112,000		$103,541,691		$116,202,691
Less: Savings (Lapse)	(239)	(10,207,700)	(262)	(12,104,691)	(243)	(9,766,691)
Cost of Permanent Positions	2,028	$80,904,300	2,189	$91,437,000	2,355	$106,436,000
Cost of Temporary Positions	25	347,339	20	400,000	20	433,000
Overtime and Holiday Pay		417,962		452,000		491,000
Other - Awards		935,700		950,000		1,030,000
TOTAL COST OF SALARIES AND STAFF YEARS	2,053	$82,605,301	2,209	$93,239,000	2,375	$108,390,000
OTHER EXPENSES:						
Personnel Benefits		$15,331,814		$18,780,000		$23,212,000
Benefits to Former Employees		195,955		357,000		264,000
Travel and Transportation of Persons		4,166,156		5,095,000		5,382,000
Transportation of Things		63,307		85,000		85,000
Communications and Rental		16,777,000		20,386,000		20,872,000
Printing and Reproduction		1,252,510		1,344,000		1,451,000
Other Services		14,383,920		17,080,000		20,626,000
Supplies and Materials		2,385,251		3,664,000		4,897,000
Equipment		4,536,406		6,603,000		7,206,000
Claims and Indemnities		52,568		0		0
Sub-Total, Other Expenses		$59,144,887		$73,394,000		$83,995,000
Total Expenses		$141,750,188		$166,633,000		$192,385,000
Actual Savings		889,812		0		0
Sequestration		0		2,074,000		0
TOTAL APPROPRIATION OR ESTIMATE		$142,640,000		$168,707,000		$192,385,000

Note: The 1990 estimate reflects the impact of the January 1990 pay raise of 3.6 percent, the 1991 estimate reflects the impact of an expected January 1991 pay raise of 3.5 percent for all employees and an average of 21 percent for federal executives.

SUMMARY OF CHANGES

The Commission's 1991 budget request of $192,385,000, as approved by the President, provides for an increase of $25,752,000 over the agency's sequestered 1990 appropriation level of $166,633,000 (i.e. the Commission's 1990 appropriation of $168,707,000 less a final sequestration of $2,074,000). The following table itemizes the requested changes. A narrative explanation of each item follows.

	1991 REQUEST		
	Positions	Staff Years	$(000)
1990-Appropriation provided by P.L. 101-162	2,451	2,269	$168,707
Less: Sequestration and staff year impact of absorbed pay and personnel benefit costs		-60	-2,074
1990-Sequestered appropriation	2,451	2,209	$166,633
1991-Base changes:			
1. Mandatory salary and personnel benefits	--	--	$ +2,609
2. Increased average employment	--	+50	+2,552
3. Annualization of new 1990 positions		+46	+2,347
4. Inflation and contractual price changes	--	--	-120
5. Pay raises:			
January 1990 (12 months cost)	--	--	+4,165
January 1991 (9 months cost)	--	--	+4,406
Required 50% absorption	--	-40	-2,203
Total base changes	--	+56	$+13,756
Program changes:			
1. Program support:			
Staff	+147	+110	$ +6,572
Non-personnel	--	--	+291
2. Data processing	--	--	+3,200
3. EDGAR contract costs	--	--	+1,933
Total program changes	+147	+110	$+11,996
Total base and program changes	+147	+166	$+25,752
1991-Total request	2,598	2,375	$192,385

NARRATIVE EXPLANATION OF CHANGES

Base changes:

1. Mandatory salary and personnel benefits- Mandatory salary costs include $1,029,000 for within grade and merit increases under the government-wide Performance Management and Recognition System (see 5 U.S.C. 5335 and 5 U.S.C. 5404 respectively), and $346,000 for one additional work day (260 in 1990 vs. 261 in 1991).

Mandatory personnel benefit costs include greater employer contributions of:

* $485,000 to employee-selected health benefit plans at higher rates renegotiated annually by the Office of Personnel Management pursuant to 5 U.S.C. 8902,

* $450,000 for increased retirement, Social Security and thrift savings costs from normal staff turnover which results in fewer employees being covered by the Civil Service Retirement System (at a total employer contribution rate of 8.45% of gross salary) and more employees being covered by the Federal Employees' Retirement System (at a total employer contribution rate of 23.65%),

* $216,000 for miscellaneous personnel benefits related to the mandatory salary costs described above for within grades, merit pay and one extra work day, and

* $176,000 for 1991 Social Security increases of .03% in the tax rate and $3,000 in the wage base;

* less, a $93,000 reduction in scheduled reimbursement to the Department of Labor for benefits and other payments made from the government-wide Employees Compensation Fund to Commission employees.

2. Increased average employment- The President has provided the Commission 50 staff years to partially restore 60 staff years lost in 1990 due to a required absorption of pay costs for general pay raises and personnel benefit adjustments.

3. Annualization of new 1990 positions- In 1990 the Commission was provided 184 new positions for which it was appropriated funds for 138 staff years, the equivalent of 9 months cost per position. The unfunded balance, equivalent to 3 months per position, represented the time required to post, interview and select applicants, time during which positions were vacant. This request funds the additional 3 months.

4. Inflation and contractual price changes- This item reflects the net impact of two cost increases, $693,000 for higher rental of space payments imposed by the General Services Administration and $100,000 for an estimated 3.8% increase in transportation and incidental employee travel expenses, less a reduction of $913,000 imposed by the Office of Management and Budget in anticipation of cost savings from installation of FTS-2000, a new government-wide telecommunications system covering telephone (voice) and data processing (data) transmissions.

5. Annual pay raises- This item funds full-year costs of the January 1990 pay raise of 3.6% imposed pursuant to P.L. 101-136, the Treasury, Postal Service and General Government Appropriations Act of 1990, and an estimate of 9 months cost for expected January 1991 pay raises of 3.5% for all employees and an average 21% for federal executives. The Office of Management and Budget has required that the Commission absorb 50% of the costs for the January 1991 pay raises.

Program changes:

1. Program support- Staff: The Commission is requesting an increase of 110 staff years (147 positions) for the following programs:

Full Disclosure	11
Prevention and Suppression of Fraud	47
Supervision and Regulation of Securities Markets	25
Investment Management Regulation	19
Legal Services	6
Economic and Statistical Research	1
Program Direction	1
Total	110

A substantive explanation of each program is contained within the body of this document.

Program support- Non-personnel:

- $191,000 for domestic and overseas enforcement activities including translation and legal services.
- $100,000 to cover administrative expenses to permit the Commission to host a conference for the International Organization of Securities Commissions.

2. Data processing- This request is needed to support three priority efforts. First, to allow the Commission to receive investigatory and market regulation data in an automated form, thereby significantly reducing current processing costs and permitting more sophisticated case analysis. Second, to process the voluminous amounts of additional information required to identify and verify fraud in an international arena, as well as to transmit and receive related data through personal computers. Third, to meet program demands for increased information services (i.e. LEXIS, NEXIS) and system operations.

3. EDGAR contract costs- This increase will be applied to EDGAR software development, filer support activities and the installation of planned hardware. Fiscal 1991 is a pivotal year in EDGAR development as it will see the first group of 2,500 non-pilot filers brought into the operational system.

Full Disclosure

Executive Summary

Organization	1989 Actual	1990 Estimate	1991 Estimate
Corporation Finance	270	276	285
Regional Offices	58	60	60
Applications and Reports Services	74	70	72
Consumer Affairs and Information Services	16	19	21
Chief Accountant	19	21	23
Electronic Filing (EDGAR)	38	52	61
Total Staff Years	475	498	522
Cost: Salaries and Benefits ($000)	$22,077	$24,403	$27,901
Non-Personnel Expenses ($000)	16,842	20,184	22,183
Total Program Cost ($000)	**$38,919**	**$44,587**	**$50,084**

This program provides investors with material information to inhibit fraud in the public offering, trading, voting, and tendering of securities. It operates in a market that, in 1989, registered approximately $400 billion in securities under the Securities Act of 1933 including about $90 billion by issuers offering securities to the public for the first time. In 1991, the full disclosure program will be deeply involved in the transition from paper to electronic filing under the operational EDGAR system.

Internationalization: Rulemaking and interpretive efforts will be increased, with substantial resources in the Division of Corporation Finance devoted to activities designed to accommodate cross-border and global offerings and trading. The staff will address issues that are critical in an international environment such as (1) the application of the statutory registration provisions, (2) the treatment of U.S. holders of foreign securities when such securities are the subject of a tender offer, and (3) the differences in disclosure requirements in the various jurisdictions covered by multinational securities offerings. Through these rulemaking efforts, the Commission will maintain its leadership position with respect to international capital formation. Additional efforts will be taken to develop international accounting and auditing standards.

Review of Filings: The Division's goal is to review the financial statements and related disclosures of one-third of the issuers filing annual reports under the 1934 Act, the approximate number of issuers that meet the selective review criteria. During 1991, the staff expects to review the financial statements and management's discussion and analysis of 2,020 reporting issuers. This review level, approximately 16% of the issuers filing annual reports with the Commission, reflects a decrease from the reporting issuer reviews completed in 1989 and 1990. The decrease is attributable primarily to the projected adverse impact on productivity during the conversion to electronic filing under EDGAR. However, in subsequent years, efficiencies and productivity gains will be realized in review of filings as a result of EDGAR. Reviews of transactional filings will remain substantially at 1989 levels while non-transactional issuer reviews will decline substantially.

Full Disclosure

Mission

The program's mission is to provide investors with material information and to prevent fraud and misrepresentation in the public offering, trading, voting, and tendering of securities. The Commission's principal disclosure authority derives from two statutes: the Securities Act of 1933 (1933 Act), which requires issuers to make disclosures concerning their business and financial affairs when publicly distributing their securities; and the Securities Exchange Act of 1934 (1934 Act), which requires issuers to file periodic reports with the Commission and to provide certain disclosures in proxy solicitations, tender offers, and ownership reports. The program is administered by the Division of Corporation Finance, the regional offices, and the Offices of Applications and Reports Services, Consumer Affairs and Information Services, Chief Accountant, and EDGAR Management.

The program accomplishes its mission through the following activities:

Review of Filings: The staff reviews filings for compliance with disclosure requirements and, where appropriate, refers matters for enforcement action. The integrated disclosure system, which incorporates continuously reported 1934 Act information in 1933 Act registration statements, has maintained investor protection, enhanced the quality of periodic reporting, improved issuer access to the securities markets, fostered new methods of financing, and reduced reporting costs.

The staff annually reviews the financial statements and related disclosures of a selected group of issuers filing in the continuous reporting system. These reviews are referred to as reporting issuer reviews. The staff's goal is to review the financial statements and related disclosures of one-third of the issuers filing annual reports under the 1934 Act, the approximate number of reporting issuers that meet the selective review criteria. A reporting issuer review may be accomplished through the full review of (1) a transactional filing, such as a 1933 Act repeat issuer registration statement or a merger proxy statement, or (2) an annual report, subsequent periodic reports, and proxy statements. A reporting issuer review also may be accomplished through a full financial review, which encompasses an in-depth accounting analysis of an issuer's financial statements and management's discussion and analysis (MD&A). In addition, the staff reviews other filings, such as 1933 Act new issuer registration statements, 1934 Act registration statements, current reports, tender offer materials, going private transactions and proxy soliciting materials, as warranted.

To handle the substantial volume of filings, the Division of Corporation Finance separates its workload into four categories: (1) full review of all aspects of the filing; (2) full financial review; (3) monitor of the filing (review only for one or more specific items); and (4) no review. As the result of a review or monitor, the staff may issue comments to filers to elicit better compliance with applicable disclosure requirements. Filers that amend identified deficiencies may avert the possibility of costly investor litigation or Commission enforcement action. The comment process helps investors receive the information they need to make informed investment decisions and thus facilitates an efficient capital formation process.

Rulemaking and Interpretive Advice: Rulemaking is undertaken to meet investor protection needs, improve and simplify disclosure, establish uniform requirements, and eliminate unnecessary regulation. The objective is to define regulatory requirements on a cost-effective basis. The staff provides advice through (1) no-action and interpretive letters applying the securities laws to specific situations, (2) interpretive releases furnishing guidance on matters of a more general nature, (3) telephone responses to questions from the public, and (4) exemptive orders providing relief from specific legal requirements. The staff applies the Freedom of Information Act (FOIA), Privacy Act, and Government in the Sunshine Act (Sunshine Act) to requests for Commission information. These requests come from private and professional investors, attorneys, brokers, accountants, parties in litigation, and other members of the public.

Regional Office Disclosure: Regional offices foster compliance with disclosure requirements by small businesses by reviewing registration statements (Form S-18) and post-effective amendments to Form S-18s filed under the 1933 Act, and Regulation A filings from issuers seeking an exemption from formal filing requirements. Form S-18 offerings are limited to $7.5 million and Regulation A offerings are limited to $1.5 million. The regional staff provides technical assistance to small business filers through pre-filing conferences and comment letters. As necessary, the staff refers appropriate matters for enforcement action.

Document Receipt and Distribution: The staff receives and processes approximately 325,000 filings each year. These include 1933 Act and 1934 Act filings processed by the Division of Corporation Finance, plus other documents submitted to the Commission and publicly distributed. Responsibilities include (1) examining filings for acceptance or rejection, (2) calculating correct filing fees, and (3) extracting data for entry into nine different database systems used by the Commission staff. In addition, the staff examines beneficial ownership reports filed by company insiders for completeness and technical compliance with the form requirements. The staff also prepares filings for microfilming by the Commission's dissemination contractor and distributes copies of these filings to the staff, press room, and headquarters public reference room several times throughout the day. Copies of time-sensitive filings, such as those under the Williams Act amendments to the 1934 Act, are distributed hourly.

Public Reference: The headquarters reference room staff provides the public with access to filings made with the Commission. Responsibilities include (1) organizing and maintaining the library of microfiche and paper documents consisting of corporate filings, Commission releases, and other public submissions, (2) assisting the public in locating information and using the Commission's computer databases for research, and (3) responding to public requests for copies of filings or other documents published by the Commission.

Information Services: The FOIA staff applies the provisions of the FOIA, Privacy Act, and Sunshine Act to requests for information contained in Commission files in order to determine what information may be released publicly. The staff is required by statute to respond within a 10 business-day period which may be extended under certain circumstances. Complex FOIA requests that involve large quantities of records are held in abeyance and processed under a first-in/first-out (FIFO) system. The staff also considers the applicability of the Commission's confidential treatment rules to requests for certain information, and assists the Office of Legislative Affairs in responding to requests for information from members of Congress.

Accounting Policy: The accounting policy staff seeks to enhance the reliability of financial reporting and to improve the work performance by public company auditors. These efforts are critical in assuring the fairness and accuracy of financial statements used in investment decisions. In addition to the review process, the staff endeavors to achieve its objectives through (1) rulemaking initiatives that supplement accounting standards, implement financial disclosures, and establish independence criteria for accountants, (2) oversight of private sector activities that establish accounting and auditing standards and improve the quality of the audit practice, (3) discussions with issuers and accountants on complex accounting issues, and (4) participation in Commission enforcement investigations and proceedings involving auditing and financial reporting problems.

Program Environment

The program operates in a securities market where, in 1989, the total value of securities registered under the 1933 Act was approximately $400 billion, including about $90 billion by issuers offering securities to the public for the first time. The levels of financing and other activities depend on prevailing economic conditions. The total number of 1933 Act new and repeat issuer registration statement filings in 1988 (exclusive of post-effective amendments and filings that become effective without staff action) declined approximately 20% from the pre-October 1987 market break levels. The downward trend continued into 1989, as such registration statement filing levels were over 9% less than in 1988. Tender offer, merger, and leveraged buyout (LBO) transactional filing levels also were lower in 1989 than in 1988.

The current, highly uncertain economic environment makes projections extremely difficult and, for this reason, workload projections for transactional filings in 1990 and 1991 generally have been held to the 1989 level. Projections also have not been made concerning the effect of statutory or rule changes. An increase in transactional filings above estimated levels could reduce the program's ability to reach the projected number of reporting issuer reviews. Recruiting and retaining substantially more accountants is key to reaching the projected levels of 1933 Act transactional and reporting issuer reviews, as all such reviews require accounting analysis. The recruitment and retention of accountants is extremely difficult due to the competition from public accounting firms and private industry.

The Commission remains dedicated to the Electronic Data Gathering, Analysis and Retrieval (EDGAR) system. The pilot project has demonstrated the success of electronic filing. The staff is heavily involved in planning the transition from paper to electronic filing under the operational EDGAR system. The conversion will begin during 1991 and continue for a period of 36 to 48 months. During the next year, significant resources will be dedicated to EDGAR rulemaking, training, planning, and coordination.

Internationalization of the securities markets will require review of regulations applicable to capital markets and rulemaking efforts to accommodate cross-border and global offerings and trading. The Commission must provide guidance on the applicability of existing regulations relating to internationalization and to interpretations of new rules as they are adopted. The program's rulemaking activity also will focus on:

- modifying existing rules to implement and support electronic filing under EDGAR;
- modernizing the capital formation process to conform with developments in the securities markets;
- making the registration process more efficient;
- reviewing issues raised by LBOs and other highly leveraged transactions to determine the adequacy of current rules to protect shareholders and debt holders of public companies; and
- reviewing proxy rules and the appropriate interrelationship between federal and state law governing the shareholder voting process.

Other rulemaking activities will proceed in the areas of takeovers and contests for corporate control. The Regulatory Flexibility and Paperwork Reduction Acts will require the review of new and existing rules to avoid undue burden on small businesses and duplicative regulation.

The filings from small business issuers have become increasingly complex, resulting in the regional staff providing more technical assistance and pre-filing conferences. In addition, there has been a proliferation of blank check offerings in the regional offices. In these filings, issuers indicate that offering proceeds will be used to locate and acquire an operating company. Often, blank check offerings involve undisclosed promoters, exaggerated claims, and the potential for market manipulation and substantial risks for investors. The post-effective amendments associated with blank check offerings contain detailed descriptions of properties purchased with the offering proceeds and require extensive staff time to review.

The complexities involved in receiving and processing filings have increased greatly due to recent rule changes and heightened public interest in filings such as tender offer schedules and changes in ownership reports. For example, the staff must spend more time performing preliminary examinations and classifications of filings, and conducting more extensive computer update and quality assurance functions. In addition, the increasing number of filings requires greater collection efforts for filing fees which must be deposited to the U.S. Treasury on the same day the filing is made. Compliance with the Debt Collection Act and the Department of the Treasury Cash Management Program requires extensive review, assessment, research, and collection efforts.

The number of visitors to the headquarters public reference room is expected to increase approximately 25% between 1989 and 1991. This projected increase reflects the growth in market activity and public awareness of, and demand for, market-sensitive information. As a result of the expected increase in public users, additional staff time will be needed for responding to questions, providing assistance in locating information, and expediting document and microfiche retrieval.

The number of FOIA and confidential treatment requests is expected to increase annually by approximately 10% through 1991 due to greater public awareness of the availability of information under the Act and the increase in Commission regulatory and enforcement activities that generate requests. In addition, policies and procedures required by recent court decisions and FOIA amendments have created new tasks which will require more staff research and processing time.

The accounting policy activities are carried out within a comprehensive system of public and private sector initiatives under which the integrity of financial reporting by public companies is constantly being reviewed, modified, and improved. The initiatives are the result of Commission rulemaking, private sector standard-setting (conducted principally by the Financial Accounting Standards Board (FASB)), the peer review program of the American Institute of Certified Public Accountants (AICPA), state licensing programs, and civil litigation. Greater resources will be devoted to policy and standard development in the international accounting and auditing area, including issues of auditor independence. The staff also expects a high level of standard-setting activity, subject to Commission oversight, because the FASB has undertaken complex major projects on financial instruments and accounting for post-retirement benefits, and because of a substantial number of peer reviews conducted by the AICPA. Moreover, the Commission will continue to devote substantial staff accounting resources to enforcement cases involving complicated auditing and financial reporting problems.

1989 Program Evaluation

Review of Filings: During the year, increasing the percentage of accountants in the review process to at least 50% continued to be a priority of the Division of Corporation Finance, but those efforts fell far short of the goal. The level of issuer and transactional filing reviews are directly related to the number of accountants in the Division. However, the recruitment and retention of accountants were extremely difficult due to hiring limitations as well as the competition from public accounting firms, private industry, and other government agencies. Over the past three fiscal years, the division hired a total of 48 accountants while a total of 34 left the division.

The staff reviewed 2,615 (22%) reporting issuers' financial statements and related disclosures through 2,227 full reviews and 388 full financial reviews. This represents an 11% decline from the number of reporting issuer reviews completed in 1988. The decrease is attributable primarily to the reallocation of resources from filing reviews to rulemaking and interpretive projects, including a study of LBO transactions.

The 2,615 reporting issuer full reviews were completed through the full review of 884 (26%) 1933 Act repeat issuer registration statements, 191 (75%) merger proxies, 100 (100%) going private proxies, and 1,949 (16%) annual reports. The staff also reviewed 684 (80%) 1933 Act and 136 (85%) 1934 Act new issuer registration statements.

The review process produced substantial results, including material changes to the disclosures in filings. In this regard, 40 issuers restated quarterly or annual financial statements in response to staff comments and the non-financial disclosures of approximately 107 issuers were amended as a result of a special review of the MD&A discussions by issuers in 24 selected industries. For example:

- The filings of two issuers reflected the predecessor financial statements of two regional grocery store chains purchased from a company that recently had completed an LBO transaction. The staff requested that the financial statements in one filing be revised to reflect certain corporate expenses of the seller, reducing the pre-tax net income for the last fiscal year by approximately $6.6 million. In the second filing, the financial statements were revised to recognize historical losses of the closed stores, reducing net income for the last fiscal year by approximately $5.9 million (47%), from $12.4 million to $6.5 million.

- The staff reviewed the annual report of a savings and loan holding company and questioned the cost allocation between one class of mortgage-backed securities that was sold and another class that was retained. Specifically, the staff questioned the allocation since the market value of the retained class was significantly less than its book value while only a nominal loss was recognized in the sale of the other class. As a result, the registrant changed its allocation methodology and reduced the pre-tax net income in the year ended June 30, 1988 from $4.9 million to $84,000.

- The staff reviewed a registration statement filed by a company whose only products were 5 1/4 inch disk drives for computers. The staff noted that the company was attempting to develop 3 1/2 inch disk drive products, which would eventually replace its current products. As a result of staff comments, the company substantially expanded its MD&A disclosures to discuss the problems in the development of its new products and the impact of the discontinuance of its existing product line which would result in the write-down of inventory and machinery. The company also expanded its discussion of liquidity at the request of the staff and noted that it was in default on a bank loan, had delayed payments to its suppliers, and would need substantial additional financing in the future beyond the funds received in the contemplated public offering.

Not all matters can be resolved by the comment process. During 1989, 119 matters were referred to the enforcement staff; 65 have resulted in investigations being opened or other action being taken.

Rulemaking and Interpretive Advice: The staff worked on 23 rulemaking projects and related matters. Among the most significant accomplishments were the following:

- Internationalization - (1) reproposed Regulation S concerning the extra-territorial application of the 1933 Act registration provisions, and (2) proposed prospectus disclosure rules, forms, and schedules that will provide a foundation for a multi-jurisdictional disclosure system.

- Registration and Prospectus Requirements - (1) reproposed Rule 144A to provide a safe harbor exemption from 1933 Act registration requirements for resales of restricted securities to a specified class of institutional investors under specified conditions, and amendments to the holding periods for restricted securities under Rules 144 and 145, (2) proposed amendments to Form S-8 to reduce burdens in registering securities issued pursuant to employee benefit plans, and (3) issued an interpretive statement regarding disclosure by issuers of interests in publicly offered commodity pools simultaneously with an interpretive statement by the Commodity Futures Trading Commission.

- Tender Offers - (1) proposed revisions of Regulations 13D and 13G to permit filing of Schedules 13D and 13G based upon the purpose of the share acquisitions, (2) proposed amendments to Schedules 13D, 13E-3, 14B, and 14D-1 to require disclosure concerning significant equity participants in control transactions, and (3) drafted proposals to amend disclosure requirements in connection with negotiated acquisitions and other extraordinary corporate transactions to elicit increased disclosure regarding the basis for the board of director's decision to recommend or approve the transaction.

- Reporting Requirements - (1) issued an interpretive release relating to disclosure required by Item 303 of Regulation S-K, Management's Discussion and Analysis of Financial Condition and Results of Operations, (2) reproposed comprehensive revisions to transaction reporting requirements for officers, directors, and principal shareholders, and (3) adopted revisions to reporting requirements when registrants change their fiscal years.

- Small Business - (1) amended Regulation D to expand the definition of accredited investor and to provide for substantial and good faith compliance with the terms, conditions, and requirements of the regulation, and (2) hosted the annual Government & Business Forum on Small Business Capital Formation and the Sixth Annual NASAA/SEC Conference on Federal-State Securities Regulation.

The staff responded to a large number of telephone requests for interpretive advice. Streamlined procedures for responding to telephone calls in the Office of Chief Counsel of the Division of Corporation Finance have resulted in the reduction of duplicative calls and improvement in the coordination of responses. The staff responded to 48,260 telephone requests for legal and interpretive advice. The staff also responded to approximately 635 requests under the FOIA and Privacy Act, 1,119 requests for no-action or interpretive letters and 1,616 items of miscellaneous correspondence.

Regional Office Disclosure: The regional office staff received 561 Form S-18 registration statements registering approximately $2.2 billion of securities. The staff reviewed 533 (95%) Form S-18s during the fiscal year while the remaining 5% which were received late in the year were not completed until October, 1989. To permit better oversight of blank check and other promotional offerings, Form S-18 registration statements, including home office filings, were reassigned to those regional offices most closely associated with the business or proposed business of the issuer. This reallocation was done in response to a perception that certain persons involved with such offerings were attempting to avoid recognition of the extent of their activities as well as to minimize the risk of common, potentially abusive practices being realized. The regional office review total includes the review of 31 Form S-18 filings transferred from the home office. The staff also reviewed 88 (100%) Regulation A filings offering approximately $72 million of securities, and 609 post-effective amendments to Form S-18s containing new financial statements and detailed descriptions of the properties and businesses acquired with the proceeds of blank check offerings. The review of post-effective amendments required at least as much time and resources as the review of the original filings.

These reviews produced substantial results, including material changes to the disclosures in filings. For example, in reviewing a filing from a company formed to explore and develop a tungsten mine, it was noted that the balance sheet included substantial mineral exploration costs, mining rights and capitalized equipment expenses totaling $536,000. The staff questioned the valuation of the rights and equipment, which were purchased from an affiliate, and the company's ability to recover the exploration costs. As a result, the company wrote off the items, reducing its assets by 62%, from $865,000 to $329,000. In another instance, the staff noted that a company reflected unamortized capitalized contract costs of $866,000 as an asset on its balance sheet. These were the costs associated with obtaining an affiliated agreement to develop and manage a bingo facility. After comments by the staff, the company revised the management agreement, which resulted in the elimination of the unamortized costs and a reduction in its assets by 44%, from $1,992,800 to $1,106,800.

The regional office staff also provided technical assistance to issuers and investors by responding to approximately 23,400 telephone and 2,400 written inquiries.

Document Receipt and Distribution: Approximately 324,300 1933 Act, 1934 Act, and miscellaneous filings were received, indexed, and made available to the Commission staff, press and the public reference room. The most time-sensitive documents, particularly those dealing with takeovers or tender offers, generally were provided within an hour of receipt. Over $200 million in fees, including wire transfers, were matched, computed, reconciled and updated. The staff examined over 120,000 ownership reports for completeness and technical compliance with filing requirements, received and filed approximately 380,000 pieces of microfiche, and responded to nearly 28,700 internal or governmental requests for filings by reproducing over 134,000 pieces of microfiche and approximately 271,000 pages of paper documents.

Public Reference: As part of a reorganization during the year, the headquarters public reference room implemented procedures designed to expedite identifying, locating, and retrieving documents and microfiche for public users. The staff answered questions and completed requests for documents from over 69,000 visitors to the headquarters public reference room. Nearly 309,000 paper documents and 371,000 pieces of microfiche were added to the existing library of publicly available information, which were maintained amid constant use by these visitors. In addition, the staff processed over 500 requests for certifications of Commission filings and responded to more than 49,700 requests for microfiche records, about 13,000 requests for paper filings, and over 90,000 telephone inquiries regarding filings.

Information Services: Initial response times on the 1,989 FOIA requests were within statutory timeframes in approximately 95% of the cases. However, 40 new complex FOIA requests were placed in the FIFO system, in addition to 29 previously outstanding requests. The time period between initial response and staff assignment to a FIFO case for review of materials was reduced, however, from one year to approximately eight months. The staff also processed approximately 3,127 confidential treatment requests and coordinated approximately 1,199 Congressional requests for Commission records.

Accounting Policy: Rule amendments were adopted to reduce the time period for registrants to report changes in accountants and file the related confirming letter from the exiting accountants. Shortly thereafter, with strong encouragement from the Commission, the SEC Practice Section of the AICPA's Division for Certified Public Accounting Firms adopted new rules requiring that its member firms send to the Commission a copy of the letter to its former client when its client-auditor relationship has ended. This coordination of Commission and private sector actions has been successful in improving timely reporting of changes in auditors and assisting in the identification of opinion-shopping. In addition, a number of staff accounting bulletins were issued during the year to inform the financial community of the staff's views on accounting and disclosure issues. These bulletins dealt with such matters as off balance sheet financing and the appropriateness of gain recognition when there are uncertainties as to the realization of the gain.

The staff actively participated in international accounting and reporting developments, including major projects to improve accounting and auditing standards. The staff also maintained strong oversight of the quality control activities of accounting firms practicing before the Commission and continued to monitor private sector standard-setting activities of the FASB and the Auditing Standards Board. The staff continued to devote significant resources to monitoring accountant independence issues noted in filings and responding to interpretive requests involving situations that may impair independence. The staff also initiated a comprehensive review of the Commission's independence requirements for auditors in response to both domestic and international concerns. New rulemaking projects were initiated on management reports on internal controls and auditor involvement in quarterly reporting. In addition, another rulemaking project was undertaken to make the Commission's accounting rules consistent with recently adopted standards in areas such as income tax and cash flow. Finally, the staff was involved in all major enforcement actions involving accounting and auditing matters, including disciplinary proceedings against accountants.

1990 Appropriation

In light of uncertain economic conditions, projections of transactional workload for 1990 and 1991 generally have been held to 1989 levels. An increase or decrease in transactional filings from these estimated levels will alter the mix and number of total filings reviewed and the number of issuer reviews that may be completed. The impact of possible statutory and regulatory changes also has not been projected. For example, the discussions do not take into consideration potential legislation to transfer registration and reporting responsibilities for certain financial institutions to the Commission or proposed legislation to revise the Trust Indenture Act. Similarly, there has been no estimate of the effect of potential legislation on "change of control" transactions and proposed rulemaking which would provide a safe harbor for certain resales of securities to institutional investors.

Review of Filings: Efforts will continue during the year to increase the percentage of accountants in the review process to at least 50%. If hiring is successful, it is estimated that approximately 2,200 (18%) reporting issuers' financial statements and related disclosures will be reviewed. This 16% decrease from the 2,615 reporting issuer reviews in 1989 is largely attributable to the projected adverse affects on productivity during the preparation for conversion to electronic filing under EDGAR. Significant resources will be used due to interruptions in the review process as personnel are diverted to EDGAR implementation activities, such as internal training, planning and coordination. The number also reflects the use of staff for special projects, such as review of bank and savings and loan selling practices and review of voting, proxy, and other corporate governance issues.

The staff will conduct approximately 1,715 full reviews and 485 full financial reviews of reporting issuers. The full reviews will consist of about 885 (26%) 1933 Act repeat issuer registration statements, 190 (76%) merger proxies, 100 (100%) going private proxies, and 1,230 (10%) annual reports. The full financial review level reflects the commitment of a special task group of accountants to review a significant number of financial institutions, as well as accountants loaned to the Division of Enforcement task group on financial institutions.

The staff also expects to review approximately 620 (78%) 1933 Act new issuer registration statements and 135 (84%) 1934 Act new issuer registration statements. Priority will be given to reviewing other transactional filings, including filings related to LBOs, going private transactions, and contested proxy solicitation matters.

Rulemaking and Interpretive Advice: The staff expects to work on approximately 27 rulemaking and other projects relating to matters such as:

- Internationalization of the securities markets, including implementation of a multi-jurisdictional disclosure system and adoption of regulations clarifying the transnational application of 1933 Act registration requirements.
- Adoption of a safe harbor registration exemption for institutional resales.
- Accommodation of electronic filing under the EDGAR system.
- Review of the proxy rules and the appropriate interrelationship between federal and state law governing the shareholder voting process.

Other projects include rulemaking related to registration of securities pursuant to employee benefit plans, reporting requirements of officers, directors, and principal shareholders, disclosures by control persons and equity owners in tender offers and proxy solicitations, and modernization of the capital formation process.

The number of requests for legal and interpretive advice and the time needed to respond to the requests are expected to increase significantly from the prior year due to anticipated completion of rulemaking projects. The staff estimates it will handle approximately 57,000 telephone calls and 1,200 requests for no-action or interpretive letters, increases of about 18% and 7%, respectively, from 1989.

Regional Office Disclosure: The staff expects to review approximately 100 (100%) Regulation A filings, approximately 635 (100%) Form S-18 registration statements (which includes all home office and regional filings), and all of the approximately 600 post-effective amendments to Form S-18 with new financial statements. Many of the amendments will include detailed descriptions of the properties or businesses acquired from the proceeds of blank check offerings. Technical assistance and pre-filing conferences will remain at 1989 levels.

Document Receipt and Distribution: Due to a redistribution of staff resources to support the electronic filing project, there will be a reduction in staff available to process the estimated 334,000 paper documents and file the estimated 385,000 pieces of microfiche. With the redistribution of staff resources, it is anticipated that there may be delays in delivering documents to the Commission staff and updating Commission database systems. If this occurs, there will be delays in the review process, including the prompt identification of problems with respect to issuers that have changed auditors, and the ability to perform other activities may be impaired. The staff will adhere to fee assessment and collection procedures, despite an expected 12% growth in microfiche reproduction from internal, Congressional, and other governmental agency requests.

Public Reference: The staff in the headquarters public reference room expects to provide assistance to 76,000 visitors, and respond to approximately 110,000 telephone and written requests for information. It is estimated that the library of paper documents and microfiche will be maintained as the staff receives and processes approximately 318,000 documents and 375,000 pieces of microfiche. In addition, the staff expects to respond to over 54,000 requests for microfiche and process the requests for current filings within a four-hour time period.

Information Services: Public requests for information under the FOIA, Sunshine Act, and Privacy Act are expected to increase 11%, 24% and 15%, respectively, over 1989 levels, requiring additional staff in order to review and extract materials and coordinate agency responses within the statutory timeframes. Added procedures for reviewing documents that include confidential information, as required by a circuit court decision, will greatly complicate processing of these requests. Monitoring developments in case law and administrative decisions, complying with Office of Management and Budget information policy guidance, and increasing activity in the area of electronically stored records also will add to staff workload. With additional staffing, it is anticipated that the number of cases pending in the FIFO system at the close of 1990 will be reduced by 50%. In addition, the time from receipt to assignment for full processing will be reduced by several months, as new employees are trained and become familiar with FIFO assignment procedures.

Accounting Policy: With additional resources, the accounting policy staff intends to address a number of complex and pervasive issues (such as new financial instruments) which have developed in the last several years. By comparing notification letters from exiting auditors to the disclosures in periodic reports filed by public companies, the staff will continue efforts to ensure timely and appropriate reporting of changes in accountants. The staff also intends to use the additional resources to (1) continue the Commission's leadership role in improving international accounting and auditing standards, (2) ensure the effectiveness of standard-setting projects undertaken by the FASB and the activities of its Emerging Issues Task Force, (3) work with the Auditing Standards Board to ensure timely and effective guidance to auditors in detecting fraud, and (4) monitor and respond to developments affecting the accounting profession, including the adequacy of independence requirements, in both the domestic and international arenas. The staff expects that projects, staff bulletins, registrant contacts, and oversight of the quality control activities of accounting firms practicing before the Commission will increase from 1989 workload levels. The staff also anticipates rulemaking projects evolving from Commission consideration of the recommendations of the National Commission on Fraudulent Financial Reporting. Staff involvement in accounting and auditing investigations is expected to increase from 1989 levels.

1991 Program Request

As mentioned previously, the 1991 projections of transactional workload have been held to 1989 levels. During 1991, substantial resources will be consumed in connection with the transition to electronic filing under EDGAR. The resources are necessary to (1) minimize the adverse effects on productivity until the staff becomes familiar with the new review procedures, and (2) provide support and instructions to filers regarding the new requirements. However, in subsequent years, efficiencies and productivity gains will be realized in review of filings as a result of EDGAR.

Review of Filings: Although it is anticipated that the same level of transactional filings will be reviewed in 1991 as in 1989, the staff expects to review the financial statements and related disclosures of about 2,020 (16%) reporting issuers, 23% less than the 1989 level and 14% less than the 1990 levels. In addition, it is anticipated that 1,100 (9%) full and 400 (3%) full financial reviews of annual reports will be completed. The lower level of filing reviews is anticipated due to the transition to electronic filing explained above. The small staff increase will focus on reviewing filings and addressing issues that arise in connection with multinational tender offers and other related filings.

Rulemaking and Interpretive Advice: The staff expects to undertake approximately 35 rulemaking and other projects. The major focus of rulemaking and interpretive activities will relate to the internationalization of the securities markets, particularly the accommodation of cross-border and global securities transactions, and substantial additional resources will be devoted to this area. Projects also will focus on the proxy, registration, prospectus, and reporting requirements, as well as "change in control" transactions, and small business filers. The staff anticipates completion of several rulemaking projects initiated in 1990. In addition, the staff expects to issue approximately 1,300 no-action and interpretive letters and respond to about 60,000 telephone inquiries, representing increases of more than 8% and 5%, respectively, over 1990.

Regional Office Disclosure: The staff expects to review all Regulation A filings, Form S-18 registration statements (including home office and regional filings), and post-effective amendments containing audited financial statements. Technical assistance, including pre-filing conferences and the time required to generate comment letters, will be comparable to 1989 and 1990 levels. The staff will continue reviewing the post-effective amendments associated with blank check offerings, which require extensive staff time.

Document Receipt and Distribution: The conversion to electronic filing under EDGAR will require the dedication of substantial resources to train staff and to maintain, for an interim period, dual document receipt and distribution systems for electronic and paper filings. This will be offset, in part, by the expected decrease in requests for documents and microfiche as more issuers file electronically. With additional resources, fee collection and quality assurance will continue at 1990 levels, while document dissemination, ownership report examination, and the delinquency program activities will be somewhat improved.

Public Reference: Access and availability of Williams Act and other filings to the public will be maintained. Responses to the public inquiries for documents, microfiche and certifications will be processed promptly, and the microfiche and paper libraries will be maintained efficiently.

Information Services: The volume of FOIA, Sunshine Act, and Privacy Act requests is projected to increase 9%, 17% and 17%, respectively, over 1990. Additional staff resources will result in improved initial response times on these requests. Initial response times will be within statutory requirements for almost all of the FOIA requests received, and the FIFO caseload pending assignment will be eliminated. Processing times for complex FIFO cases will be reduced from 1989 levels, requiring approximately 4 to 6 months from receipt of request to production of releasable records.

Accounting Policy: With additional staff, the accounting policy staff is expected to keep pace with anticipated developments. Increased resources are expected to be used in (1) continuing the Commission's leadership role in improving international accounting and auditing standards, (2) ensuring the effectiveness of controversial and complex FASB projects on post-retirement benefits, financial instruments, and consolidations, and (3) implementing various recommendations of the National Commission on Fraudulent Financial Reporting. The staff expects to increase its involvement in projects, staff bulletins, registrant contacts, oversight activities affecting the accounting profession (including efforts to provide timely and effective guidance to auditors in detecting fraud and guidance on the adequacy of independence requirements), and accounting and auditing investigations.

Full Disclosure Program

Reporting Issuer Reviews

	1989 Actual	1990 Estimate	1991 Estimate
Number of Reporting Issuers' Financial Statements & Related Disclosures Reviewed			
Full Reviews 1/	2,227	1,715	1,620
Full Financial Reviews	388	485	400
Total Issuer Reviews	2,615	2,200	2,020
Number of Reporting Issuers Filing Annual Reports	11,894	12,300	12,700
Percentage of Reporting Issuers Reviewed	22%	18%	16%

Set forth on pages I-14 through I-16 are the filings reviewed in 1989 and expected to be reviewed in 1990 and 1991 in order to achieve the above levels of reporting issuer reviews. The total number of filings by reporting issuers shown as reviewed in the workload tables exceeds the number set forth above because it is likely that more than one document filed by an issuer will be reviewed, and an issuer's annual report may be reviewed in connection with a 1933 Act repeat issuer registration statement or merger proxy statement. In addition, the tables reflect reviews of other transactional filings, e.g., new issuer 1933 and 1934 Act registration statements, tender offers, merger proxies, and going private transactions, that warrant examination.

1/ A full review involves an in-depth examination of the accounting, financial, and legal aspects of an issuer's filings. The review may be undertaken in the context of a transactional filing, or as a review of the issuer's annual report and subsequent periodic reports. The review process encompasses the examination of the initial filing and all amendments. It also involves appropriate research, conferences with the issuer's representatives, and examination of supplemental data and periodic reports. For most types of documents, filings are screened to determine if they will be selected for review.

Full Disclosure Program

Workload Data

Activity	1989 Actual	1990 Estimate	1991 Estimate
Review of Filings			
Registration Statements			
1933 Act New Issuers 2/			
Filed	858	790	790
Full Reviews	684	620	620
Staff Years	45.4	44.5	47.5
1933 Act Repeat Issuers Including Post-Effective Amendments 3/			
Filed	3,413	3,425	3,425
Full Reviews	884	885	885
Monitors 4/	408	410	410
Staff Years	42.5	45.5	48.5
1934 Act New Issuers			
Filed	160	160	160
Full Reviews	136	135	135
1934 Act Repeat Issuers			
Filed	1,461	1,465	1,465
Full Reviews or Monitors	785	785	785
Staff Years for 1934 Act Registrations	7.6	8.0	8.5
Proxy Material			
Going Private Proxies			
Filed	100	100	100
Full Reviews	100	100	100

2/ New issuers are issuers that at the time of filing are not required to file periodic reports with the Commission, generally because they have not previously registered an issue of securities under the 1933 Act. Certain new issuer 1933 Act registration statements are not reviewed because they are, in substance, repeat issuer filings and would not otherwise be selected for review. These include filings by currently registered issuers forming new corporate structures. Although previously included in this category, new limited partnership filings by a general partner that had a similar registration statement declared effective ceased being treated as repeat issuer filings in May 1980. Subsequent to that date, the Division had been reviewing all such filings.

3/ Post-effective amendments are included in full review totals only if they contain new financial statements.

4/ Certain filings are monitored for specific disclosure items.

Activity	1989 Actual	1990 Estimate	1991 Estimate
Review of Filings (continued)			
Merger Proxies			
Filed	254	250	250
Full Reviews	191	190	190
Contested Solicitations			
Filed	84	85	85
Full Reviews	84	85	85
Other Proxy Statements			
Filed	2,617	2,625	2,625
Full Reviews	428	430	430
Monitored	63	65	65
Staff Years for Proxy Material	32.7	33.5	34.5
Periodic Reports			
Annual Reports			
Filed	11,894	12,300	12,700
Full Reviews	1,949	1,250	1,100
Full Financial Reviews 5/	388	625	400
Monitored	264	265	265
Quarterly & Current Reports			
Filed	47,338	48,950	50,550
Full Reviews	3,275	2,625	2,100
Monitored	11,103	11,100	11,100
Staff Years for Periodic Reports	62.8	49.0	45.0
1934 Act Schedules			
Tender Offer Schedules			
Filed 6/	519	525	525
Full Reviews	480	485	485
Going Private Schedules			
Filed	176	175	175
Reviewed	176	175	175

5/ A full financial review involves an in-depth accounting analysis of an issuer's financial statements and management's discussion and analysis.

6/ Includes schedules filed for issuer tender offers which do not involve a possible "change of control."

Activity	1989 Actual	1990 Estimate	1991 Estimate
Review of Filings (continued)			
Acquisition Statements			
Filed	5,137	5,150	5,150
Full Reviews or Monitors 7/	110	125	125
Staff Years for 1934 Act Schedules	9.0	9.5	10.5
Subtotal - Staff Years	200.0	190.0	194.5
Other Review Activity Staff Years			
Trust Indenture/Exempt Issues	4.5	4.5	4.5
EDGAR Planning/Coordination	0.4	4.5	12.0
EDGAR Training	0.0	12.5	4.5
Other Staff Training	6.0	7.0	8.5
Quality Control	5.6	6.0	6.0
Securities Bar Relations	2.0	2.0	2.0
LBO Study	6.7	1.0	0.0
Justice Dept. Assistance	1.3	0.0	0.0
Division of Enforcement Task Group	0.0	2.5	0.0
Subtotal - Staff Years	26.5	40.0	37.5
Staff Years	226.5	230.0	232.0
Rulemaking and Interpretive Advice			
Rulemaking and Other Projects	23	27	35
General Advice and Coordination			
Telephone Calls	48,260	57,000	60,000
FOIA, Confidential Treatment & Other Matters	635	650	650
Written Responses			
No-Action/Interpretive Letters	1,119	1,200	1,300
Exemptive Orders	38	40	40
Correspondence	1,616	1,700	1,700
Staff Years	43.5	46.0	53.0
Regional Office Disclosure			
Regulation A			
Offering Circulars			
Filed	88	100	100
Full Reviews	88	100	100

7/ These filings are primarily reviewed in connection with reviews of tender offers and contested solicitations involving a "change of control."

Activity	1989 Actual	1990 Estimate	1991 Estimate
Regional Office Disclosure (continued)			
Post-Effective Amendments			
Filed	29	20	20
Reviewed	15	15	15
Staff Years for Regulation A	4.5	4.5	4.5
Form S-18			
Registration Statements			
Filed 8/	561	635	635
Full Reviews	533	635	635
Post-Effective Amendments			
Filed Without New Financials	221	225	225
Filed With New Financials	609	600	600
Full Reviews	609	600	600
Staff Years for Form S-18	37.3	39.3	39.3
Subtotal - Staff Years	41.8	43.8	43.8
Staff Years - Other Filings & Assistance 9/	5.8	5.8	5.8
Staff Years - Public Reference Activities	10.4	10.4	10.4
Staff Years	**58**	**60**	**60**
Document Receipt and Distribution			
1933 Act Filings			
Registration Statements	7,016	7,200	7,500
Amendments to Registration Statements	9,758	10,500	11,000
1934 Act Filings			
Registration Statements	1,703	1,900	2,000
Registration Statement Amendments	824	900	1,000
Proxy Material	6,394	7,200	7,300
Annual Reports	12,755	13,000	13,500
Annual Report Amendments	3,004	3,500	3,750
Quarterly Reports	34,077	35,500	36,500
Quarterly Report Amendments	1,841	1,900	2,300
Current Reports	15,103	15,300	15,500
Current Report Amendments	2,016	2,200	2,400
Ownership Reports and Amendments	120,230	122,500	124,500
Restricted Securities Reports & Amendments	26,957	27,500	29,000

8/ Includes filings transferred from the home office to the regions.

9/ The regional staff responded to 23,400 telephone and 2,400 written inquiries in 1989.

Activity	1989 Actual	1990 Estimate	1991 Estimate
Document Receipt and Distribution (continued)			
1933 & 1934 Act - Miscellaneous Filing			
Documents	60,343	62,000	64,000
Amendments	22,279	23,000	24,000
Microfiche Processing			
Received & Filed	380,291	385,000	390,000
Requests Received & Processed	28,653	32,000	29,000
Microfiche Reproduced	134,428	138,000	135,000
Staff Years	47	45	46
Public Reference			
Documents received and filed	308,926	318,000	315,000
Microfiche received and filed	371,020	375,000	380,000
Visitors	69,414	76,000	86,000
Requests for documents	12,906	14,500	14,500
Certifications	534	700	800
Telephone inquiries	90,110	95,000	100,000
Microfiche requests	49,732	54,000	54,000
Staff Years	27	25	26
Information Services			
FOIA Requests	1,989	2,200	2,400
FOIA Appeals	62	80	90
Privacy Act Requests	52	60	70
Privacy Act Appeals	0	0	0
Government in the Sunshine Act Requests	97	120	140
Confidential Treatment Requests	3,127	3,400	4,000
Confidential Treatment Appeals	10	20	30
Congressional Requests	1,199	1,300	1,400
Staff Years	16	19	21
Accounting Policy			
Rule amendments & Staff Bulletins	17	20	22
Oversight of Private Sector Standards & Registrants Contacts	650	680	720
Participation in Investigations	150	160	170
Staff Years	19	21	23
Total Staff Years 10/	437	446	461

10/ Excludes Electronic Filing staff years.

Electronic Filing

Executive Summary

Organizations	1989 Actual	1990 Estimate	1991 Estimate
EDGAR Management	18	28	37
Applications and Reports Services	13	22	22
Information Systems Management	2	2	2
Corporation Finance	5	0	0
Total Staff Years	38	52	61
Cost: Salaries and Benefits ($000)	$ 2,143	$ 2,782	$ 3,387
Non-Personnel Expenses ($000)	10,837	12,720	14,734
Total Program Costs ($000)	**$12,980**	**$15,502**	**$18,121**

The Electronic Data Gathering, Analysis and Retrieval (EDGAR) system is designed to automate the receipt, processing, and dissemination of documents filed with the Commission. The purpose of EDGAR is to increase the efficiency and fairness of the securities markets for the benefit of investors, corporations, and the economy by accelerating the processing, dissemination, and analysis of time-sensitive corporate information filed with the Commission. EDGAR is estimated to have an aggregate cumulative benefit of $220 million excluding the costs of the EDGAR pilot and operational systems, based on internal and external benefit/cost studies conducted by the Commission and the MITRE Corporation.

Implementation of Operational EDGAR: Fiscal 1991 will be pivotal to the success of the EDGAR system. The first 2,500 non-pilot registrants will enter the operational system on a mandatory basis and begin filing all documents electronically. It is anticipated that these new filers plus 1,300 pilot filers will make over 7,500 test filings and approximately 23,000 actual filings during the year. Also, filers preparing for phase-in during 1992 will make an additional 1,500 test filings in 1991.

Contract Administration: The staff will oversee the contract, which is estimated to cost $12.6 million for 1991, to ensure that its implementation is timely and meets technical specifications. The staff will analyze contractor resource allocations, review invoices, oversee technical and operational developments, ensure consistent contractor performance, and control agency resources.

Filer Assistance: Ensuring a stable system environment with adequate assistance to filers, their agents, and Commission users is essential during this phase-in period. The support staffs will provide assistance to filers and Commission personnel. The filer support staff will be available from 8:00 a.m. to 10:00 p.m. eastern time to accept electronic filings and assist filers experiencing problems. The support system will be organized so that staff will be able to respond to a maximum of 20 simultaneous telephone calls for a total of 480 calls per day. In addition, the user support staff will provide timely assistance to filers and Commission personnel with technical and substantive questions regarding equipment and software.

Electronic Filing

Mission

The primary purpose of the Electronic Data Gathering, Analysis and Retrieval (EDGAR) system is to increase the efficiency and fairness of the securities markets for the benefit of investors, corporations, and the economy by accelerating the processing, dissemination, and analysis of time-sensitive corporate information filed with the Commission. Under EDGAR, information filed electronically with the Commission will be accessible on computer screens in minutes, instead of days and weeks.

The EDGAR pilot project began operating on September 24, 1984 and has demonstrated that electronic filings can be received, processed, and analyzed. Since the pilot's beginning, over 1,300 registrants have transmitted approximately 63,000 filings. The pilot was designed and implemented in three phases. Phase I provided for receipt of electronic filings and limited processing. Phases II and III added significant enhancements to electronic processing and tested additional hardware and software. This phased approach permitted the Commission to address systematically a wide range of technical features. A similar approach is planned for the operational EDGAR system.

The operational EDGAR system is being designed to receive, process, and store very large quantities of free-form textual information. Like the pilot, operational EDGAR will receive filings via (1) direct transmissions over telephone lines or public networks using asynchronous or bisynchronous communications protocols, (2) diskettes prepared on various types of word processors or personal computers (PC), and (3) magnetic tapes. Filers who wish to transmit their filings directly from an IBM-compatible workstation will receive special PC support software furnished by the EDGAR contractor at no cost.

The operational EDGAR system will provide comprehensive automated capability for the full disclosure functions of the Divisions of Corporation Finance and Investment Management. The system will allow the staff to review filings from over 15,000 registrants and electronically disseminate these filings to the investing public. The system also will assist the Office of Applications and Reports Services in meeting its responsibilities to validate filings for adherence to certain statutory and regulatory requirements and for verifying the correctness of filing fees. These functions will be implemented through three subsystems: receipt and acceptance, analysis and review, and dissemination.

The Commission will share funding of the EDGAR system costs with the contractor, BDM International, Inc. (BDM). The Commission will pay for both the receipt and acceptance, and the analysis and review subsystems. The contractor will pay the full cost of the dissemination subsystem in exchange for Commission-regulated sale of electronically filed data and associated services.

Since EDGAR is a major priority for the Commission, the Office of EDGAR Management (OEM) was created in 1987 to coordinate and monitor the implementation of the operational system and to facilitate a smooth transition to electronic filing. This office will ensure that the contractor delivers a system constructed to Commission specifications on time and within budget. OEM will monitor and oversee the activities of the contractor with respect to system design, testing and operation and will regulate the contractor's wholesale dissemination services. In addition, OEM will oversee contractor development of an EDGAR user manual and associated training material which will be distributed to the filing community as well as to Commission users. The private sector will be encouraged to train filers through seminars. The contractor and OEM will provide technical assistance to filers and Commission personnel.

Program Environment

The Commission annually receives and processes over 11 million pages of information in 330,000 documents. About 80% of these are initial submissions; the remainder are amendments. Periodic reports are filed at specific times during the year, requiring intensive staff effort to process these peak loads without long delays. The average document length is 41 pages and the longest filings are registrations under the Securities Act of 1933, which average 165 pages.

Most of these documents are currently received by the Commission in paper. To make these documents available to the public, the Commission utilizes a private contractor to produce microfiche copies, which are sold to the public at Commission-regulated rates. The Commission receives, at no charge, sets of the filings on microfiche for its own use. While this system has worked well in the past, computer technology will increase the speed, availability, and utility of this information to external and internal users. The pressure to move to electronic filing has grown as the private sector has increasingly used computer technology for business recordkeeping and communications.

The EDGAR project has government-wide, precedent-setting implications for the receipt and dissemination of electronic information. Consequently, it has been designated as a Presidential Priority System. As a result of extensive Congressional interest in the EDGAR system, the General Accounting Office has conducted two audits of the pilot project. The audit recommendations have been implemented or will be addressed during transition to the operational system.

Benefit/cost studies of EDGAR conducted by the Commission and the MITRE Corporation estimate an aggregate cumulative benefit of $220 million over the contract term, excluding costs for the pilot and operational systems. The Commission study found that the operational EDGAR system may have a net internal benefit of $20 million, while the MITRE Corporation's study indicated a cumulative net external benefit of approximately $200 million. The quantitative calculation of benefits together with the qualitative improvements far exceed the total cost of the pilot and expanded operational EDGAR systems which is estimated at $125 million over eight years, including the dissemination subsystem (funded by the contractor), but excluding the staff, overhead, and other costs for OEM.

1989 Program Evaluation

The eight year contract to design and operate the EDGAR system was awarded January 3, 1989 to BDM for approximately $52 million. A protest filed by an unsuccessful bidder was quickly withdrawn in the Commission's favor, but not without the loss of one month of work. The EDGAR pilot was successfully transferred from Arthur Andersen and Co. to BDM on April 1, 1989 and will continue until all pilot filers are converted to the operational system in 1991. EDGAR project costs for 1989 are approximately $10.3 million, including operational contract costs of $8.7 million and pilot contract costs of $1.25 million.

The staff and BDM began work on the operational system by detailing the design and software requirements which will continue through 1990. To facilitate this work, several work groups were established to ensure that the system is designed to meet Commission needs. These work groups consist of representatives from all operating divisions and offices that will be affected by EDGAR. Significant effort was focused on:

- refining system requirements;
- defining electronic document formats;
- initiating EDGAR rulemaking;
- developing a process for verifying registration and other filing fees;
- designing an agency-wide data network to link EDGAR and non-EDGAR workstations with existing Commission systems;
- determining security requirements;
- selecting and installing EDGAR workstations;
- preparing the EDGAR training curriculum; and
- designing the EDGAR user manual.

In developing the basic design, the Commission realized the necessity and importance of integrating EDGAR and non-EDGAR functions such as interoffice mail, word processing and access to Commission databases. Currently, there are 1,000 non-EDGAR workstations which access a series of Commission databases. It is vital that the design precludes separate networks which cannot interact. Therefore, the Commission will achieve integrated data communication through a network built in accordance with the EDGAR specifications.

EDGAR Status Reports for the periods ending December 31, 1988 and June 30, 1989 were prepared and submitted to Congress in conformance with Section 35A.(b) of the 1987 amendments to the Securities Exchange Act of 1934.

1990 Appropriation

The focus during 1990 will be to develop the operational EDGAR system and prepare filers and the Commission staff for the conversion scheduled for 1991. Two closely related objectives for the year are (1) designing, constructing and testing the major components of the receipt and acceptance, and the analysis and review subsystems, and (2) drafting and publishing for public comment the EDGAR rules and filer phase-in schedule. Achieving these goals is essential to maintaining the overall implementation schedule and the ultimate success of the operational EDGAR system. The operational contract is estimated to cost $11.0 million for 1990.

The system development schedule calls for BDM to have nearly completed the first release of the operational system software by the end of 1990. This includes (1) the receipt and acceptance subsystem, (2) the review and analysis subsystem, and (3) the PC-based software that filers may use in preparing, checking and transmitting electronic filings to the EDGAR system.

OEM staff will provide extensive quality assurance by testing and validating each product delivered pursuant to the contract. This oversight will ensure that contractor products are technically sound, efficient and conform to the Commission's design specifications. The staff also will ensure that the operational system meets appropriate security standards and conforms to the rigid backup and recovery requirements contained in the contract. In addition, the staff will monitor the contract between the Commission and BDM to ensure that it is current. The contractor's invoices and resource utilization will be thoroughly examined to preclude improper payments. The staff also will begin establishing a workable system interface with state securities agencies and the self-regulatory organizations. This coordination is intended to foster one-stop filing which would enable registrants to satisfy both federal and state filing requirements with a single electronic transmission.

The filer and OEM user support staffs will concentrate on assisting pilot filers, working with the contractor in preparing filer and staff user manuals, training Commission personnel as they receive workstations, increasing their own technical competence, and learning the new filing requirements for the operational system.

The MITRE Corporation will supplement the Commission's design review and product test activities through modeling techniques to ensure that adequate capacity is built into all elements of the system. The General Services Administration's Federal Systems Integration and Management Center (FEDSIM) will continue providing advice and guidance regarding EDGAR security. In addition, the Defense Contract Audit Agency is expected to audit the pilot contract. These outside services will cost an estimated $700,000.

The Commission will also require the assistance of an outside auditor to establish a proper cost accounting framework for regulating the prices the dissemination subcontractor charges for electronically distributed Commission documents. It is estimated that these audit services will cost $100,000.

OEM will be heavily involved in the specification and design of several subsystems that were not considered a direct part of the original EDGAR contract. One deals with an agency-wide data network which will link all EDGAR and non-EDGAR workstations and applications. The EDGAR portion of this network will be installed and tested in fiscal 1990. Test links with a few non-EDGAR workstations will also be established. In addition, an office automation system will be installed for use by all EDGAR and non-EDGAR workstations on the data network. Also, OEM will work with BDM, the filer support staff, and the Office of Information Systems Management in designing and testing a fee verification system that includes links to the Federal credit card network as an optional means of electronic fee payment.

1991 Program Request

This year will be pivotal to the success of the EDGAR system. The first 2,500 non-pilot registrants will enter the operational system on a mandatory basis and begin filing all documents electronically. It is anticipated that these new filers plus the 1,300 pilot filers will make over 7,500 test filings and approximately 23,000 actual filings during the year. Also, filers preparing for phase-in during 1992 will make an additional 1,500 test filings in 1991.

OEM staff will administer the operational contract which is estimated to cost $12.6 million for 1991. The staff will oversee the contract, ensuring that it is implemented according to contract schedules, and coordinate filer and user support. Project management will include contract administration, such as analyzing contractor resource allocations and reviewing invoices, as well as technical and operational oversight, to ensure consistent contractor performance and control of agency resources.

In addition, OEM will use contract services from the MITRE Corporation and FEDSIM. The MITRE Corporation will assist the Commission in monitoring system performance and response times and in providing modeling to evaluate potential impacts on the system arising from changes in the number of users or the addition of functions. FEDSIM will continue to play a role in ensuring that the operational system maintains an appropriate level of security.

Ensuring a stable system environment with adequate assistance to filers, their agents and Commission system users is essential during the phase-in period. Therefore, filer support will be provided during the hours of 8:00 a.m. to 10:00 p.m. eastern time. The staff will instruct filers in using the operational system and will have the capability to respond to 20 simultaneous telephone calls for a total of approximately 480 calls per day. These estimates are based on assumptions about the average length and distribution of telephone calls. However, if additional filer support is needed, staff may have to be detailed from the operating divisions at the expense of the review staff which will result in lower productivity in reviewing filings.

Prevention and Suppression of Fraud

Executive Summary

Organization		1989 Actual	1990 Estimate	1991 Estimate
Enforcement		231	244	274
Office of International Affairs		0	8	13
Applications and Reports Services		11	11	11
Consumer Affairs and Information Services		15	15	17
Regional Offices		421	444	471
Total Staff Years		678	722	786
Cost:	Salaries and Benefits ($000)	$33,923	$38,248	$45,600
	Non-Personnel Expenses ($000)	12,635	16,176	18,307
Total Program Costs ($000)		**$46,558**	**$54,424**	**$63,907**

The Securities and Exchange Commission is a law enforcement agency. Investigations in today's environment are in sharp contrast to those of only a few years ago. They involve more documents and witnesses, and concern more complex issues of fact and law, thus requiring greater resource allocations. Protection of investors through the pursuit of securities fraud by financial institutions, broker-dealers and other regulated entities, and corporate reporting violations will be a priority for the 1990's. The international dimensions of the program will grow, requiring substantial resources to foster global cooperation and regulatory consistency.

Investigation and Litigation Initiatives: The efforts begun by the penny stock task force will generate substantial numbers of investigations in 1991. Similarly, the initiative to target fraud by savings and loan associations and other financial institutions will produce both increased enforcement investigations and a greater national awareness of the problem for the benefit of the investing public. Increased emphasis on financial disclosure, insider trading and manipulation cases, will require additional staff, including accountants and analysts, as well as attorneys. Efforts to secure disgorgement and other ancillary relief may require world-wide searches for assets, and increasingly result in protracted negotiations, analysis of state laws exempting property from execution, preparation of detailed plans for disposition of proceeds, and contested litigation. As U.S. Attorneys around the country devote attention to bringing criminal actions against securities violators, Commission staff increasingly will be called upon to assist in the investigation and litigation of these cases.

Internationalization: In December 1989, the Office of International Affairs was created to coordinate and facilitate the Commission's international activities. To facilitate collection of information abroad, the Commission has developed mutual information-sharing agreements on a bilateral basis with various foreign authorities. The Commission also cooperates on an informal basis with foreign regulators with whom it does not have explicit agreements. Additional resources will have to be devoted to coordinating such requests, as the SEC initiates more investigations into violations with multinational dimensions. The Commission will engage in more negotiations, information-sharing agreements, increased participation in international organizations, and the development and coordination of new initiatives in the international area.

Prevention and Suppression of Fraud

Mission

The Securities and Exchange Commission is a law enforcement agency. This program protects the investing public by inhibiting (1) illegal distribution of securities, (2) fraud and manipulation in the purchase and sale of securities, and (3) other conduct that violates the federal securities laws. Law enforcement preserves the integrity of the securities markets and maintains investor confidence vital for capital formation. The program is administered by the Division of Enforcement; the regional offices; the Offices of Consumer Affairs and Information Services, and Applications and Reports Services; and the newly established Office of International Affairs.

The program's principal legislative mandates are the Securities Act of 1933, the Securities Exchange Act of 1934 (Exchange Act), the Investment Company Act of 1940, and the Investment Advisers Act of 1940. Each law contains explicit authority for the Commission to conduct investigations and, where unlawful conduct or noncompliance is discovered, to bring enforcement actions in a federal court, institute administrative proceedings before the Commission, or refer the matter to the Attorney General for criminal prosecution. These laws extend to, among other things, initial offerings of securities, periodic reporting by companies with registered securities, mergers and acquisitions, securities trading, and regulated entities such as exchanges, broker-dealers, investment companies, and investment advisers.

The program accomplishes its mission through the following activities:

Intelligence Analysis: The first phase of enforcement work consists of the evaluation of information that may indicate past or imminent violations of the federal securities laws. This information is acquired from diverse sources. For example, investigations pending as of the end of the year were initiated based on information from the following sources: [1]

Internal		External	
SEC Examination Program	15%	Investor Complaints	20%
Issuer Filings	6%	Informants	15%
SEC Market Surveillance	6%	Self-Regulatory Organizations	14%
Other SEC Investigations	7%	News Media	11%
Other SEC Divisions	9%	Other Federal Agencies	5%
		State/Local Agencies	4%

Market activity is monitored by special surveillance units at the exchanges and by Commission staff, and inquiries are made into unusual trading patterns. Public complaints, unusual market movements, and leads from other sources are analyzed and evaluated to determine whether an inquiry should be initiated. If more information is necessary to decide whether an investigation should be undertaken, a Matter Under Inquiry (MUI) will be opened. The staff may spend up to 80 hours on a MUI before a final decision is made to open an investigation.

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[1] Since a case may emanate from more than one source, the sum of the percentages exceeds 100%.

In support of the enforcement function, staff of the Office of Consumer Affairs and Information Services research and respond to investor complaints and inquiries, screen investor complaints for information pertaining to fraud and other illegal activity, as well as for evidence of securities industry problems requiring more in-depth regulatory review, and refer selected complaints for further investigation or oversight examination. The staff collects and analyzes complaint information and trends to help target regulatory and enforcement activities and prepares consumer education materials to help investors protect their own interests. Staff of the Office of Applications and Reports Services support the enforcement program by compiling, updating, disseminating and certifying investigation and proceedings files.

Investigations: An investigation is opened when a matter warrants further attention to determine whether a violation exists and what enforcement action is appropriate. Where witnesses and others are willing to cooperate on a voluntary basis, an informal investigation may be conducted. If it is necessary to compel testimony or the production of documents, the Commission may order a formal investigation, authorizing the staff to employ subpoenas to obtain evidence.

The scope and complexity of investigations vary considerably. While some investigations may consist of a routine inquiry into the conduct of a single person or regulated entity, many require detailed examinations involving a large number of persons and entities. Moreover, investigations frequently involve novel and complex schemes and difficult issues of fact or law. In fiscal 1989, the percentages of cases in the most significant subject classifications were as follows: [2]

Fraud in Offer/Sale/Purchase	59%
Failure to Disclose	39%
Insider Trading	24%
False Filing	22%
Broker-Dealer Violations	22%
Unregistered Offering	18%
Manipulation of Stock Price	18%
Accounting Problems	16%
Investment Adviser/ Company Violations	15%
Books & Records Problems of Regulated Entities	14%
Breach of Fiduciary Relationship	13%
Management Fraud	10%

Proceedings: Depending on the results of an investigation, if the Commission determines to take action it may: (1) commence an injunctive action in a United States district court, (2) institute a proceeding before an administrative law judge, and/or (3) refer the matter to the Department of Justice for criminal prosecution. Matters may also be referred to state or local authorities or self-regulatory organizations.

Decisions regarding the particular enforcement action to take in a case are based on a number of considerations and legal judgments. Injunctive actions are undertaken to obtain court orders enjoining existing or imminent violations of the federal securities laws and to obtain other forms of equitable relief to protect the investing public. When appropriate, the Commission seeks to freeze assets or appoint a receiver or trustee to conserve funds in which investors have an interest and to preserve the court's ability to order meaningful disgorgement.

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[2] Since a case may involve more than one violation classification, the sum of percentages exceeds 100%.

Pursuant to the Insider Trading Sanctions Act of 1984 (ITSA), the Commission may seek civil penalties in insider trading cases. In 1988, the Exchange Act was amended through enactment of the Insider Trading and Securities Fraud Enforcement Act of 1988 (ITSFEA) to provide the Commission with authority to seek civil penalties from employers or supervisors of persons who commit insider trading violations. The Commission also was given the discretion to pay bounties to informants who provide information leading to the imposition of ITSA and ITSFEA penalties.

The Commission institutes administrative proceedings against regulated entities to determine whether it is in the public interest to suspend or revoke the registration required to engage in the securities business. The Commission may also institute administrative proceedings against persons associated with regulated entities. Remedies for misconduct include censure, limitations on activities, suspension for up to twelve months, or a bar from participation in the securities industry. Administrative proceedings also are instituted to determine whether it is in the public interest to (1) suspend or refuse to permit the effectiveness of securities offering registration statements, (2) revoke or suspend the ongoing registration of securities, (3) order issuers and associated persons to comply with reporting and other requirements applicable to registered securities, and (4) suspend or revoke privileges of accountants, attorneys and other professionals to practice before the Commission.

While authority to conduct criminal proceedings lies with the Department of Justice, the Commission's staff provides significant assistance to the Department in developing complex cases. In many instances, evidence developed in Commission investigations is made available to U.S. Attroneys and may result in indictments and criminal prosecutions. A significant number of staff attorneys and other enforcement professionals have been detailed around the country to assist in the investigation and prosecution of criminal cases.

International Affairs: The increasing internationalization of the world's securities markets has raised many new and complex issues which impact upon the Commission's ability to enforce the U.S. federal securities laws. For example, a central problem the Commission now faces is collecting information located abroad. To address this issue, the Commission has developed mutual information-sharing agreements on a bilateral basis with various foreign authorities. These agreements allow the Commission to obtain evidence located abroad while avoiding the conflicts that may result from differences in legal systems. The Commission has entered into eight such agreements, which have proven to be an effective means for obtaining information and developing cooperative arrangements between regulators. In addition, the staff coordinates closely with the regulators with whom it has information-sharing agreements to develop ways to implement and improve the agreements.

The Commission also cooperates on an informal basis with foreign regulators with whom it does not have explicit agreements by assisting them in obtaining publicly available information. In addition, the Commission may assist these regulators in obtaining information on a voluntary basis and, where appropriate, compel the production of information on their behalf, and grant them access to certain nonpublic investigative files.

The Commission consults closely with the Departments of State and Justice with regard to both the negotiation of Commission agreements and the negotiation of U.S. criminal mutual legal assistance treaties (MLAT) to ensure that they cover securities offenses. The Commission has worked with the Department of Justice to utilize certain MLATs, particularly the MLAT with Switzerland, to obtain information for investigations.

In addition to developing methods of obtaining information from abroad, the Commission staff addresses other international issues such as effecting service of process abroad using various international conventions, freezing assets located abroad, and enforcing judgments against foreign parties obtained by the Commission in the United States. The Commission staff also actively develops legislative and other initiatives to facilitate international cooperation, and considers the implications of various rule proposals on the prevention and suppression of fraud in the international arena.

Program Environment

The securities industry has undergone unprecedented change and growth in virtually every area under the Commission's jurisdiction during this decade. The number of broker-dealers, investment advisers and other regulated entities has grown significantly, and banks and other financial institutions have extended the range of their securities activities. Also, corporate restructurings due to activities such as mergers and takeovers have been widespread.

The trading markets have experienced tremendous increases in volatility and volume. Markets are becoming increasingly internationalized, as both foreign trading in U.S. securities and U.S. trading in foreign securities continue to increase. With the globalization of the securities markets, investigations increasingly involve activities by persons and entities in other countries. Attempts to obtain documents and other information engender numerous difficulties, and intensive efforts are required to overcome legal impediments to foreign evidence gathering.

Fraudulent activity in penny stocks is increasing and spreading geographically throughout the United States and the rest of the world. Penny stock operators can be found in many areas, including New York, Atlanta, Miami, Denver, Salt Lake and Los Angeles. Participants include broker-dealers, attorneys, accountants, and transfer agents operating both in this country and abroad. The number of SEC penny stock fraud investigations is significant and growing. In investigating, and especially in litigating cases in this area, the Commission has met high levels of resistance. The Commission has devoted extensive amounts of staff time and resources to pursuing these cases.

A major allocation of resources is being directed to the investigation of potential financial reporting and securities offering violations by savings and loan and other thrift associations. Inadequate or misleading corporate financial reporting and fraudulent activities by broker-dealers also are areas which demand increased investigative resources. Due to the seriousness of violative activities uncovered, and the increasing emphasis on securities cases by criminal authorities, the fraud program is devoting an increasing amount of its resources to providing assistance in investigating and prosecuting criminal cases relating to a wide spectrum of securities violations.

The litigation burden on the staff has intensified. There has been an increase in Commission actions for preliminary injunctions, temporary restraining orders, asset freezes and other emergency relief. Efforts to secure disgorgement and other ancillary relief may require worldwide searches for assets, and increasingly result in protracted negotiations, analysis of state laws exempting property from execution, preparation of detailed plans for disposition of proceeds, and contested litigation. Insuring the proper disposition of assets after disgorgement orders are entered frequently requires resolving competing claims.

Investor complaints are a traditional indicator of potential fraud. In 1989, the Commission received 44,977 complaints and inquiries from investors, a 260% increase since 1982. The National Association of Securities Dealers (NASD) reported receiving over 4,903 complaints, a 313% increase from the number received in 1982. On average, over 20% of Commission investigations each year have resulted, at least in part, from information made available by investor complaints.

1989 Program Evaluation

The Commission conducted a comprehensive and vigorous enforcement program in an increasingly difficult environment. Between 1985 and 1989 the number of inquiries and investigations pending increased by 50%. In 1989, the Commission:

- opened 377 new investigations (pending investigations totalled 1,000);
- filed 140 injunctive actions involving 420 defendants;
- instituted 155 administrative proceedings involving 236 respondents; and
- filed 15 civil and criminal contempt actions.

International Cases

The internationalization of the securities markets has complicated many of the Commission's investigations and litigated proceedings, especially those involving insider trading and market manipulation. SEC v. Finacor Anstalt and Certain Purchasers and SEC v. Wang and Lee provide good examples of these complications. In Finacor (which was filed in November 1989), the defendants were alleged to have made more than $3 million trading in the stock and options for the stock of Combustion Engineering in the two and one half days prior to the announcement of a friendly tender offer. This trading took place through financial institutions in Liechtenstein, Luxembourg and the Cayman Islands. The Commission participated in five emergency court hearings in a six-week period as part of its successful efforts to prevent dissipation of the defendants' assets and to require one defendant to return certain assets that had been removed from the United States. These hearings involved novel and difficult questions concerning, among other things, the differences between foreign and United States law.

In Wang and Lee the defendant Lee was alleged to have made more than $19 million through insider trading in more than 20 securities, using overseas accounts in more than 30 different names. The litigation, which involved in part preventing Lee from hiding his assets overseas, required more than a dozen court hearings in less than a year and required the Commission to employ counsel in Hong Kong and the United Kingdom. A settlement was reached on August 2, 1989 with Lee's payment of $25,150,000 to the court appointed receiver and the entry of a permanent injunction against him.

As a result of its formal and informal information-sharing arrangements, the Commission staff is making an increased number of formal requests to foreign authorities for assistance and is receiving an increased number of requests for assistance from abroad.

International Requests for Assistance

	SEC Requests to Foreign Governments	Foreign Requests to the SEC
1987	33	40
1988	84	81
1989	101	150

Regulated Entity Cases

A major segment of the Commission's enforcement caseload involves regulated entities. In 1989, 43 cases were brought against broker-dealers or persons associated with them. Referrals from broker-dealer examinations may result in cases typically involving violations of the financial responsibility and books and records provisions of the Exchange act and rules thereunder. In one significant case, the Commission settled proceedings involving the trading of approximately $12.5 million in unmarked short-sale transactions during the market break of October 19, 1987 (In the Matter of Salomon Brothers, Inc.). In another important broker-dealer case, SEC v. Matthews & Wright Group, Inc., et al., the Commission alleged, among other things, violations of the internal controls and antifraud provisions involving over $1.3 billion in sham closings in municipal bond underwritings.

In April 1989, following extensive negotiations, the Commission entered into a settlement with Drexel Burnham in SEC v. Drexel Burnham Lambert, Inc., et al., an injunctive action which alleged that Drexel Burnham, Michael R. Milken and other named defendants devised and carried out a fraudulent scheme involving numerous violations such as insider trading, stock manipulation, fraud on Drexel's own clients, failure to make required disclosures of beneficial ownership of securities, and violations of the books and records and margin rules. Included in the scheme were transactions based on a secret arrangement with former stock trader Ivan F. Boesky. Drexel Burnham consented to, among other things, a permanent injunction with respect to the alleged violations, including the anti-fraud provisions; payment of $350 million into a fund for the benefit of persons injured in the transactions; $300 million in civil and criminal penalties; and compliance with sweeping remedial undertakings. Drexel Burnham also consented to entry of a Commission order placing the firm on administrative probation for three years. The case against Michael R. Milken and the five other defendants remains pending. The Commission is continuing its investigation of conduct by other Drexel Burnham employees and business associates. Commission staff members continue to assist in prosecution of the multi-count indictment of Michael Milken and others.

A significant number of actions filed against investment advisers during 1989 were the result of investment adviser examinations by the staff. Investment adviser cases involved such violations as:

- commingling and/or misappropriation of client assets (In the Matter of Private Asset Management, Inc., et al. ($110 million), (In the Matter of Forbes Portfolio Management, et al. ($6 million)), (In the Matter of Waddell Jenmar Securities, Inc., et al. ($1.9 million));

- misleading performance advertising claims (In the Matter of Managed Advisory Services, Inc., et al., In the Matter of Harvest Financial Group, Inc., et al.);

- nondisclosure of material information to clients (In the Matter of Heine Securities Corp.); and,

- various significant internal control and compliance violations by investment companies for which the advisers had assumed contractual responsibility (In the Matter of Sea Investment Management, Inc., et al., In the Matter of United Services Advisers, Inc., et al.).

Insider Trading Cases

During 1989, the Commission brought 42 insider trading cases. Litigation of insider trading cases has been complicated by a recent Supreme Court decision that has the effect of making jury trials available in cases in which the Commission seeks ITSA penalties. Preparing for a jury trial places an additional litigation burden on the Commission. The Commission completed its first jury trial, SEC v. John Naylor Clark III, in April 1989. After trial, Clark, who traded while knowing of his employer's plans to acquire another company, was ordered to disgorge the profits which he and his source made and to pay an ITSA penalty equal to almost 1.5 times his profits. A number of other recent insider trading cases involved trading while in possession of information learned prior to changes in corporate control, including SEC v. David Hellberg, et al., SEC v. Selig Solomon, et al., and SEC v. Kerry A. Hurton, et al. As noted, the Commission's case against Drexel Burnham also alleged insider trading violations. Examples of criminal insider trading cases include U.S. v. Seymour G. Ruderman, U.S. v. Marcus Schloss & Co., Inc., and U.S. v. Robert Freeman.

The Commission is authorized by ITSFEA provisions to pay bounties to informants who provide information leading to the imposition of insider trading civil penalties. In 1989, the Commission promulgated regulations governing the administration of the bounty program, and published a pamphlet providing information concerning the program to the general public. The Commission authorized the first payment under the bounty program in the amount of approximately $3,500.

Financial Disclosure Cases

The Commission expended substantial resources on investigations involving false and misleading disclosures concerning the financial condition of companies and the issuance of false financial statements. Such investigations often involve complex business transactions occurring over extended periods of time. These investigations are frequently document intensive, requiring the staff to obtain and analyze thousands of documents. Typically, a number of individuals have participated in the transactions or prepared and disseminated the false and misleading statements. Injunctive actions and administrative proceedings brought by the Commission in 1989 included actions involving improper recognition of income (SEC v. Donald D. Sheelen, et al., overstatement of income between $15 million and $27 million), overstatement of inventories (SEC v. Rocky Mount Undergarment Co., Inc., et al., $607,000 overstatement of net income), and internal accounting controls (In the Matter of Matrix Science Corp., et al.). The Commission also instituted a number of proceedings pursuant to Rule 2(e) of the Commission's Rules of Practice, alleging violations of the securities laws or improper professional conduct by internal accounting officers and outside accountants.

Securities Offering Cases

These cases involve the offer and sale of securities in violation of the registration provisions and may involve misrepresentations concerning the use of proceeds, the risks involved, and the return on investment. In order to establish violations of the registration and antifraud provisions, the staff must identify and question numerous investors to determine the manner in which they were solicited and the representations made to them. Further, the staff often must obtain and examine offering statements and documents reflecting the flow of investor funds to establish misrepresentations and to locate funds for disgorgement to defrauded investors. During fiscal 1989 the Commission instituted a number of injunctive actions involving offering violations, including SEC v. Louisiana Real Estate Equity, Ltd., et al., concerning the sale of $65 million in investment contracts involving condominiums; SEC v. William A. Bartlett, et al., involving the sale of over $8 million in investment contracts in a dairy leasing program; and SEC v. Arthur R. Miller, et al., involving the sale of $4.3 million in interests in a mortgage account.

Changes in Corporate Control Cases

The Commission brought a number of enforcement actions in fiscal 1989 relating to disclosures required in connection with changes in corporate control, including actions for alleged false statements concerning investment purpose (SEC v. Amster & Co., et al.) and actions relating to the proposed acquisition of another company (SEC v. Rana Research, Inc., et al.). In SEC v. Paul A. Bilzerian, et al., the Commission alleged, among other things, failure to disclose the acquisition of significant beneficial interests in corporations. Settlements reached with three of the four defendants resulted in disgorgement totalling over $3 million. Active civil litigation continues with Mr. Bilzerian. U.S. v. Bilzerian, the related criminal action, resulted in a nine-count conviction against Mr. Bilzerian.

Penny Stock Cases

With the creation of the SEC Penny Stock Task Force in October 1988, the Commission both formalized and expanded its efforts to address abuses in the offering and trading of low-priced securities in the over-the-counter market. Criminal and civil cases also are referred to appropriate federal and state authorities. The work of the Task Force has also led to a number of regulatory initiatives designed to stem penny stock fraud. The Task Force also organized the first international Penny Stock Fraud Training Program for participants from U.S. Attorney Offices, the Federal Bureau of Investigation, the Internal Revenue Service, U.S. Customs Service, U.S. Postal Inspection Service, the Commodities Futures Trading Commission and other various regulators, including eight foreign authorities. Nine regional meetings were held around the country for state and federal securities regulators and prosecutors to discuss strategies and share information.

The Commission brought 61 penny stock enforcement actions and issued 22 trading suspensions in 1989. These cases involved problems such as fraudulent blind pool offerings, use of fictitious officers and directors, nominee accounts, excessive markups, false press releases on issuer activity and predetermined pricing in secondary trading. Violative activity was uncovered at the local, national and international levels. On August 3, 1989, the Commission filed an action, SEC v. Arnold Kimmes, et al., alleging an extensive scheme involving the manipulation and distribution of certain penny stocks, and the defrauding of investors in the U.S. and abroad of several million dollars. Cases have also been brought involving allegations of excessive mark-ups and other violative activities in connection with offerings of low-priced securities (In the Matter of the Stuart-James Co., Inc., et al., In the Matter of F.D. Roberts Securities, Inc. et al.).

Assistance to Other Agencies

Effective securities law enforcement requires extensive cooperation with and assistance to the Department of Justice, state and local authorities, and self-regulatory organizations. During 1989, over 53,000 staff hours were committed to assisting other law enforcement agencies with criminal prosecutions. This represents a significant increase over comparable periods in earlier years and exceeds by almost 10,000 hours the time devoted to such assistance in 1988. The Department of Justice and other criminal prosecutorial authorities were provided 226 grants of access to investigative files. At least 75 criminal indictments and 72 convictions were obtained in Commission-related cases. The Commission also made 332 grants of access to other federal, state and local authorities, or to self-regulatory organizations to assist with non-criminal enforcement investigations.

In 1988, the Department of Justice created its Task Force on Securities Crime, and dedicated 15 additional Assistant U.S. Attorneys to bring criminal cases involving securities violations. As U.S. Attorneys around the country devote increasing attention to bringing criminal actions against securities violators, they require Commission staff and expertise in order to conduct more effectively the investigation and litigation of such criminal cases.

The Commission provided significant assistance in a large number of criminal cases throughout the country, relating to numerous types of fraudulent activity. Examples include cases relating to:

- insider trading (U.S. v. Danny O. Cherif, U.S. v. Charles P. Elliott);
- market manipulation (U.S. v. GAF Corp., et al., U.S. v. Eugene Laff);
- penny stock fraud (U.S. v. Richard O. Bertoli, U.S. v. Leo M. Eisenberg, et al.);
- and, corporate reporting (U.S. v. Barry J. Minkow, et al. ("ZZZZ Best").

One case resulted from an undercover FBI investigation in which Commission employees provided assistance and advice where expertise in securities matters was required.

Remedies

For the past several years, the Commission has redoubled its efforts to obtain equitable remedies in addition to injunctive relief, particularly disgorgement of illegal profits and civil penalties pursuant to the ITSA.

Fiscal	Insider Trading Cases		Non-Insider Trading Cases	
Year	Disgorgement	ITSA Penalties	Disgorgement	Rescission
1985	$2,069,595	$158,492	$16,656,286	$29,374
1986	29,698,456	3,731,267	8,525,264	11,105,500
1987	70,147,175	62,588,391	50,560,721	0
1988	1,923,323	1,177,604	24,131,984	0
1989	32,780,656	28,322,849	387,550,203	34,000,000
TOTALS	$136,619,205	$95,978,603	$487,424,458	$45,134,874

The Commission's efforts to obtain disgorgement, civil fines, and injunctive relief, combined with the threat of increased criminal prosecution, are causing defendants to contest enforcement actions far more aggressively. The Commission's litigation caseload has grown tremendously, and litigation has become more protracted. For example, the number of litigated insider trading cases has increased significantly in four years. An increasing number of cases require extensive, complex negotiations, litigation of interim motions and, in some instances, time-consuming and staff-intensive discovery preparation.

A consequence of the Commission's intensified and successful efforts to require disgorgement of illicit gains is the need to devote substantial time and resources to (1) returning funds to defrauded investors and (2) formulating and monitoring complex plans of payment to investors, making recommendations to the court on competing claims, and defending against legal challenges. In 1989, such cases included SEC v. Dennis Levine, et al. ($11,600,000) and SEC v. Robert M. Wilkis ($3,300,000).

International Affairs

The ITSFEA, passed in November 1988, amended among other things the Securities Exchange Act of 1934 to provide that the Commission may use the full range of its powers to assist foreign securities authorities. This provision has enabled the Commission to enter into recent information sharing agreements with France and the Netherlands. Other countries are following the U.S. lead in this area by developing similar legislation that will allow the development of additional agreements. To further enhance the Commission's ability to cooperate with foreign governments, the Commission proposed to congress the enactment of the International Securities Enforcement Cooperation Act of 1989. One of the provisions of that legislation would amend the securities laws to permit the Commission to assure confidential treatment for certain information produced under reciprocal arrangements with foreign securities authorities. The Commission cannot provide assurances of confidentiality because of its disclosure obligations under FOIA, and MOU negotiations have been frustrated by the Commissions's inability to provided assurance of confidentiality for such information. Indeed, the Commission recently signed a mutual assistance agreement with France that will not go into effect until the exemption from the FOIA legislation is enacted.

Commission personnel have provided training and education in connection with programs sponsored by the U.S. Department of Justice Securities and Commodities Fraud Working Group, the North American Securities Administrators Association, the American Law Institute/American Bar Association, the International Bar Association and other professional groups. In October 1988, the Commission sponsored a conference on international market manipulation attended by representatives from 11 countries.

The Commission has participated in a number of international organizations:

- The International Organization of Securities Commissions (IOSCO) - The Commission currently chairs the Executive Committee and has been an active participant in several of IOSCO's substantive technical committees and working groups.

- The Organization for Economic Cooperation and Development (OECD) - The Commission staff has participated in discussions at the OECD regarding the establishment of international standards governing foreign corrupt practices.

- The Group of Negotiations on Services (GNS) to the General Agreements on Tariff and Trade (GATT) - The GATT consists of representatives from 150 countries, including the United States. The SEC is an active participant as a technical advisor to Treasury in the effort to establish a multilateral framework of principles and rules for trade in services.

- The Wilton Park Group - This organization is sponsored by the United Kingdom Department of Trade and Industry. The staff participated in extensive discussions to facilitate methods for enhancing the exchange of information among securities regulators.

Investor Complaints

During 1989, the staff processed nearly 45,000 complaints and inquiries. Almost 50% were directed at broker-dealers; the largest single area of complaint involved high pressure or fraudulent sales practices. Complaints against broker-dealers who deal extensively in penny stocks increased by almost 150% from 1988. In addition to a steadily increasing number of complaints and inquiries, those received are becoming increasingly complex and require more research. To deal with the evolving complexities of the securities markets, as reflected in the complaints received and the increasing need of the staff to retrieve complaints meeting specific criteria, a multi-year project was initiated to redesign the computer tracking system to permit more thorough analysis and easy retrieval of complaint information and trends. Other accomplishments included the redesign of management reports for workload tracking and the development of a number of new written procedures to improve the consistency of responses and aid in training new staff.

Support Services

The Office of Applications and Reports Services completed 2,608 attestation requests in 1989 and retrieved 2,015 records. It also processed and mailed 5,035 documents for use by headquarters and regional staff in connection with enforcement activities.

1990 Appropriation

The Commission will continue to enforce the securities laws vigorously, communicating the message that fraud will not be tolerated. Growth in the number of enforcement leads is anticipated, including referrals generated by Commission examinations and reviews of broker/dealers, investment companies, and investment advisers. The Commission's new ability to award bounties to informants in insider trading cases may increase leads in such cases. Greater availability of computers and automated market data will provide needed assistance in processing the workload. An estimated 1,241 MUIs will be opened.

In response to the savings and loan crisis, in December 1989, the Commission announced the formation of a new enforcement unit devoted primarily to detecting, investigating and prosecuting securities fraud in the banking and thrift industries, and to coordination with criminal authorities in such matters. Such cases may involve fraud in the offer and sale of securities and complicated accounting and financial statement disclosure issues. Cases involving these institutions are anticipated to involve complex fraudulent schemes involving the full range of securities frauds and large amounts of money.

Areas in which fraudulent activities have been increasing in recent years, such as fraud in securities offerings and market manipulation, are expected to continue to demand attention, along with insider trading and violations of the financial disclosure provisions of the federal securities laws. Illegal penny stock activities will result in further enforcement activity and require coordination nationally and internationally with securities regulators and prosecutors. A substantial number of cases will be brought against regulated entities, including broker-dealers, investment advisers, and investment companies. The staff anticipates opening 395 investigations.

With the growing number of matters warranting enforcement action and the increasing number of cases subject to litigation, it will remain essential that the Commission be selective in determining which matters to pursue. New cases will be opened both for serious violations and where it is necessary to ensure maximum breadth and deterrence, but necessarily will be limited to the more egregious matters. An estimated 160 civil proceedings and 160 administrative proceedings will be brought.

The litigation burden on the staff will continue to increase. Significant resources will be devoted to protracted settlement negotiations, as well as to contested judicial and administrative proceedings. The District Court in SEC v. Drexel Burnham has ordered coordinated discovery with the more-than-forty related private actions. This massive case has required the Commission to produce more than 2.8 million documents in response to defendant's discovery request. Two major penny stock cases, SEC v. Kimmes, et al. and In the Matter of Stuart James, are currently in litagation. In 1990 two major enforcement actions, SEC v. Price Waterhouse, involving alleged fraud by Price Waterhouse in the audit of AM International, and SEC v. First Jersey, involving alleged fraud in the sale of low-priced securities, will be ready for trial. In addition, substantial staff time will be required to formulate and administer plans for distribution of illegal profits to those defrauded. These plans arise from proceeds obtained in SEC v. Ivan F. Boesky ($50,000,000); SEC v. Kidder Peabody & Co., Inc. ($13,675,000); SEC v. Martin A. Siegel ($4,250,000); SEC v. Paul A. Bilzerian, et al. ($3,100,000); SEC v. Drexel, Burnham, Lambert, Inc., et al. ($350,000,000); and SEC v. Wang and Lee ($25,000,000).

In December 1989, Chairman Breeden announced the creation of the Commission's Office of International Affairs (OIA) to, among other things, coordinate and facilitate the Commission's approach to the international aspects of securities enforcement. It has primary responsibility for the negotiation and implementation of information-sharing agreements and will develop initiatives for enhancing the Commission's capabilities in international matters. The Commission signed mutual assistance agreements with authorities in the Netherlands and France. These agreements provide for comprehensive assistance in the full range of securities law matters and are authorized by the ITSFEA, described above. Several similar agreements are currently in various stages of negotiation, and efforts to negotiate new agreements will continue.

Because of the increasing number of the Commission's information-sharing arrangements, and because several foreign jurisdictions also have enacted or are considering measures that would enable them to implement comprehensive assistance agreements, the scope and complexity of requests the Commission makes and receives are expected to continue at a high level. Additional resources will have to be devoted to coordinating such requests. The Commission staff currently is implementing an internal tracking system for international matters.

The Commission is continuing its participation in international organizations, including its chairmanship of the Executive Committee of IOSCO, and intends to utilize its participation to explore areas of mutual interest to develop and enhance information-sharing agreements on a bilateral basis. The Commission's involvement in the GATT negotiations is expected to be ongoing.

Investor complaints and inquiries are expected to increase by 10% in 1990, not including 10,000 complaints and inquiries about program trading received following the steep drop in stock prices on October 13, 1989. A special Consumer Affairs team has been assigned to respond to the program trading correspondence. The large increase in total workload will strain staff resources and threaten some of the last year's progress in reducing the average response time to complaints and inquiries. Although the staff will continue to strive towards the goal of responding to complaints and inquiries within 30 days, the level of research for investors necessarily will have to be reduced. The redesign of the computer tracking and analysis system will continue as a high priority, with testing projected to begin late in fiscal 1990.

Demands for support services, such as the preparation of attestations of Commission files for use in judicial proceedings and the maintenance and retrieval of investigatory and litigation files, will place increasing demands on the limited staff of the Office of Applications and Reports Services. An increase of over 25% in attestations and other file maintenance workload is anticipated.

1991 Program Request

Intelligence Analysis: It is anticipated that the increased resources which the Commission is devoting to its regulatory program, including staff inspections of broker-dealers, investment advisers and other regulated entities, and intensified review of banking and thrift disclosures, will continue to generate significantly increasing numbers of leads which have the potential of being developed into major enforcement cases. Growth is also anticipated in investigation leads from other sources, such as insider trading leads (including those encouraged by the bounty program), and in problem areas such as penny stock trading. This increase in enforcement leads will require the staff to continue to exercise selectivity in determining which leads to pursue. Staffing will be sufficient to open an estimated 1,300 MUI's.

Significant resources will be devoted to developing market surveillance techniques to monitor and analyze the increasing proliferation of trading data, corporate disclosure and other information available through the use of computers, including information concerning trading and developments on a globalized basis.

An anticipated 10% annual increase in complaints and inquiries will further strain the limited Consumer Affairs staff and negatively impact some of its activities. Consumer Affairs will continue to strive to respond to most or all complaints and inquiries within 30 days, but the level of research, detail, and responsiveness to investors will necessarily have to be curtailed. In addition, other activities of this office will continue to suffer, as the responses to incoming complaints and inquiries consume most of the staff's time.

Investigations: Attention will be focused on continuing the Commission's emphasis on investigating major potential securities fraud wherever it occurs. Special emphasis will be placed on types of fraudulent activities which directly affect investor confidence in the securities markets, such as broker-dealer fraud, penny stock fraud, and financial fraud by banking and thrift institutions. Staffing of many cases, including financial disclosure, insider trading and manipulation cases, is anticipated to demand increased staffing resources, including use of accountants and analysts as well as attorneys. An increasing number of investigations are anticipated to have international aspects, requiring extensive travel and liaison work. Requests for foreign assistance and requests from foreign nations for assistance will grow substantially.

Staff will continue to be allocated to both new and ongoing cases determined to be of the highest priority. New staff members will be recruited, hired and trained. Training needs for both new and current staff members will be reviewed. Pending cases will be reviewed with the intention of closing cases for which it is not cost effective to devote investigative resources. An estimated 425 new investigations will be opened.

Requests from the Justice Department for staff assistance in investigating and litigating criminal cases are expected to continue to increase. While in the past few years such requests for assistance have increased dramatically, the Commission will continue to attempt to provide assistance in criminal cases, and will devote resources to its other efforts at case coordination, including granting access to its files. Staffing demands of these activities require increasing selectivity in allocating staff among investigating and litigating civil cases and providing assistance in criminal cases and to other agencies.

Proceedings: Major contested cases will continue to be vigorously litigated, including resource intensive cases involving insider trading, penny stock fraud, and the banking and thrift industry. Staffing demands and the expense of such cases will continue to require selectivity in those chosen for prosecution. Increased staffing resources will be devoted to

formulating, overseeing and monitoring complex plans for obtaining and distributing the disgorgement of ill-gotten gains (notably from insider trading and offering cases). An estimated 173 civil actions and 165 administrative proceedings will be brought.
International Affairs: The Commission is scheduled to host the 1991 annual meeting of IOSCO in Washington, D.C. This event, which currently is in the early planning stages, will involve scheduling and coordinating events, accommodations and materials for approximately 1000 regulators and other persons from all over the world.

The Commission also expects to continue its involvement with a number of other U.S. governmental agencies in reviewing the plans and directives of the European Economic Community, which is working toward achieving an internal market among its twelve member countries by December 31, 1992 (EC 92). The Commission is involved in several different studies for the purpose of exploring and addressing the issues posed by EC 92. This activity is expected to continue and intensify as the EC 92 approaches.

The Commission's work in the area of international affairs is expected to expand as the Commission's staff and enforcement activities grow in general. Moreover, the Commission will continue its activities regarding the negotiation and implementation of information-sharing agreements, participation in international organizations, and the development and coordination of new initiatives in the international area.

Prevention and Suppression of Fraud

Workload Data

It is difficult to draw conclusions and make comparisons concerning the fraud program using the workload data. The amount of resources necessary to conduct an investigation or enforcement action varies with the complexity of the facts, the underlying legal issues, the number of investors and defendants involved, the availability of needed evidence, the degree of cooperation provided by the subjects of the investigation, the willingness of defendants and respondents to enter into settlements that avoid protracted litigation, and many other factors. These factors affect the ratio of resources expended to the benefits that may be obtained in a particular case. It is important to note that the principal benefit of the fraud program -- the deterrence of violative conduct -- cannot be quantified because there is no reliable basis for estimating the amount of violative conduct and the harm to investors that might have occurred but for the Commission's enforcement efforts.

Activity	1989 Actual	1990 Estimate	1991 Estimate
Intelligence Analysis			
Investor Complaints & Inquiries	44977	59000 1/	54500
MUIs Opened	1212	1241	1300
Staff Years	**154**	**159**	**173**
Investigations			
Pending at beginning of year	944	1000	1000
Opened during year	377	395	425
Closed during year	(321)	(395)	(425)
Pending at end of year	1000	1000	1000
Staff Years	**374**	**399**	**430**
Proceedings			
Administrative			
Pending at beginning of year	38	39	39
Opened during year	155	159	165
Closed during year	(154)	(159)	(165)
Pending at end of year	39	39	39
Civil Litigation 2/			
Pending at beginning of year	224	268	268
Opened during year	155	161	173
Closed during year	(111)	(161)	(173)
Pending at end of year	268	268	268

1/ Includes an estimated 10,000 Program Trading complaints and inquiries received during the eight-week period subsequent to the October 13, 1989 190-point drop in the Dow Jones Industrial Average.

2/ Includes civil injunctive actions and civil and criminal contempt proceedings.

Activity	1989 Actual	1990 Estimate	1991 Estimate
Proceedings (continued)			
Criminal Actions			
Pending at beginning of year	93	112	112
Opened during year	75	78	82
Closed during year	(56)	(78)	(82)
Pending at end of year	112	112	112
Staff Years	150	156	170
International Affairs			
Ongoing Negotiations for International Information-Sharing Agreements	5	8	11
Foreign Requests for Commission Legal Assistance	150	150	160
Commission Requests for International Legal Assistance	101	110	120
Staff Years	5	8	13
Total Staff Years	683	722	786

Supervision and Regulation of Securities Markets

Executive Summary

Organizations		1989 Actual	1990 Estimate	1991 Estimate
Market Regulation		118	137	149
Applications and Reports Services		13	13	17
Regional Offices		114	129	138
Total Staff Years		245	279	304
Cost:	Salaries and Benefits ($000)	$11,903	$14,539	$17,217
	Non-Personnel Expenses ($000)	4,167	5,165	5,823
Total Program Costs ($000)		**$16,070**	**$19,704**	**$23,040**

During the 1980s, financial instruments grew rapidly in complexity, volume and availability, domestic and transnational trading volume reached record highs, and professional organizations and firms subject to Commission oversight increased dramatically in number, size and diversity. These pressures were exacerbated by (1) economic and financial strains caused by the unprecedented stock market declines and volatility experienced in October 1987, and subsequent fluctuations, including those in October 1989, (2) proprietary risks and exposures assumed by major U.S. broker-dealer firms and their largely unregulated holding company affiliates at home and abroad, and (3) surveillance and regulatory demands generated by widespread fraud and other abuses, such as in penny stocks. The additional resources will permit the program to respond to pressures from the changing marketplace and provide the leadership necessary to implement complex internationalization initiatives.

Oversight of the Changing Marketplace: It is critical that the Commission obtain additional staff to respond to the pressures outlined above. The capital markets unit will examine and monitor the risks and exposures presented by the major securities firms and their unregulated affiliates in the U.S. or abroad. The Commission will keep pace with the growing responsibilities of the self-regulatory organizations (SRO) and maintain an active presence to ensure an influential U.S. role in the global marketplace. The staff will be able to analyze and evaluate automated systems to determine the effectiveness of SRO trading, surveillance, and transaction settlement procedures and programs.

Internationalization: The Commission will proceed with important initiatives and maintain its leadership role in the rapidly evolving international markets. The staff will address the challenges of (1) creating an integrated, multinational regulatory structure for securities markets and market participants world-wide, (2) monitoring capital adequacy standards and market behavior on a global basis, (3) developing more efficient and compatible cross-border trading, clearance and settlement systems and linkages among clearing firms, exchanges and other securities organizations, and (4) exploring the regulatory structures of other nations and resolving conflicts and overlaps between those systems and the U.S. regulatory systems. The Commission initiatives will be extremely complex, requiring significant resources to develop, analyze, and implement, in conjunction with other U.S. and foreign regulatory authorities.

Supervision and Regulation of Securities Markets

Mission

The Securities Exchange Act of 1934 (Exchange Act) provides the principal statutory mandate and authority for the Commission's securities markets activities. The program's mission is to establish and maintain trading standards conducive to fair, orderly, and efficient markets through the supervision and regulation of the major market participants--brokers and dealers, transfer agents, and securities information processors. As envisioned by the Exchange Act, the Commission relies on and encourages regulation of the securities industry through self-regulatory organizations (SRO) as the primary method of ensuring fair dealing and investor protection. These organizations currently consist of 9 active securities exchanges, the National Association of Securities Dealers (NASD), 15 active clearing agencies, the Municipal Securities Rulemaking Board (MSRB), and the Securities Investor Protection Corporation. The Commission supervises all SRO operations and acts directly when required to fill regulatory gaps or meet specific needs.

Market Oversight: The principal goals are to ensure that (l) registered broker-dealers and transfer agents comply with operational and financial requirements, (2) all broker-dealers that have public customers comply with selling and trading practices standards, and (3) the SROs maintain effective programs to oversee their members. Market oversight involves maintaining daily contact with the SROs, conducting on-site compliance inspections of SRO programs, completing cause and oversight examinations of SRO members, and conducting inspections of transfer agents. In this effort, the staff regularly consults with and assists state and foreign securities regulators, SROs, and bank regulatory agencies. The staff also conducts cause and periodic inspections of SRO clearance and market surveillance functions, and designs and implements strategies to monitor market activities. Finally, market oversight includes reviewing all SRO disciplinary actions, ruling on SRO proposals to readmit persons previously disqualified due to misconduct, and acting on exchange applications for unlisted trading privileges in, and delisting of, securities.

Rulemaking and Interpretation: The Commission reviews SRO proposed rule changes within 90 days as required by the Exchange Act and the Securities Investor Protection Act, unless a time extension is granted. The Commission adopts new regulations and modifies or eliminates existing rules governing registration, sales and trading practices, and financial responsibility of market participants. This rulemaking activity is initiated primarily when standards established by the SROs cannot respond appropriately to regulatory needs or changing market conditions or to remove unwarranted regulatory burdens, when necessary. As directed by the 1986 amendments to the Exchange Act, the Commission consults with the Department of the Treasury on the adoption of regulatory standards for government securities brokers and dealers. As required by the Commodity Exchange Act, the Commission reviews proposals to trade futures on securities indexes or options on futures contracts on securities indexes. The staff also processes requests from securities professionals and issuers for no-action or exemptive relief and provides interpretive advice with respect to applicable statutes and rules.

National Market and Clearance Systems: The Commission provides guidance and reviews securities industry proposals to link the securities markets and their clearance and settlement facilities into national systems, as envisioned by the Exchange Act. The staff reviews pertinent SRO rulemaking and joint SRO plans for establishing necessary systems linkages. The staff also develops proposed rules, rule amendments, policy statements, and other initiatives, when needed, to ensure implementation of statutory goals regarding these systems and to facilitate their linkage with foreign markets and clearing organizations.

Registration: The staff examines the filings of broker-dealers, transfer agents, municipal securities dealers, and government securities brokers and dealers within timeframes required by the Exchange Act. A registration application, for example, must be acted upon within 45 days. During the review process, the staff may identify substantive securities violations which may prevent a registration from becoming effective or indicate a need for further inquiry. These registrations are often referred to other staff for appropriate action. Other filings examined include registration amendments and withdrawal notices. The staff also processes periodic financial reports of brokers and dealers and orders to cancel the registration of firms no longer in operation. Pertinent data are extracted from all filings to update the Commission computer databases. Records must be kept current and made available to federal, state, and local government authorities, as well as to SROs, Commission staff, and the public.

Program Environment

In the past several years there has been rapid growth in the size and diversity of the financial services industry, the development of global trading markets for securities, and the level of risk undertaken by broker-dealers. The internationalization of securities markets requires coordinated linkages and regulatory structures to promote more efficient trading and clearing of international transactions and more effective oversight of the conduct and financial responsibility of market participants. All of these changes and challenges have placed a strain on the program's staff. These pressures were exacerbated by unprecedented stock market declines and volatility experienced in October 1987 and in subsequent fluctuations including those in October 1989. The increased incidence of fraud and manipulation in the public distribution and trading of low-priced, highly-speculative securities (known as penny stocks) is also creating new challenges for the program and requiring extensive coordination with other U.S. law enforcement authorities. The Commission has devoted a large portion of its staff resources to monitoring, analyzing, and developing regulatory approaches in light of these market events and to working closely with other interested organizations at home and abroad. As a result, staff resources are severely strained, and it is becoming extremely difficult to meet existing workload requirements.

Overall, market activity and complexity increased sharply during the past decade. For example, between 1980 and 1989 annual exchange share volume more than tripled from 15.5 billion to 53.5 billion, exchange option turnover more than doubled from 96.8 million to 232.7 million contracts, and over-the-counter share volume in securities quoted on the NASD's automated quotations system (NASDAQ) increased nearly five-fold from 6.7 billion to 33.5 billion. Moreover, the trend toward global securities markets continued to accelerate. During the same time period, the value of foreign trading in U.S. stocks grew from $75 billion to approximately $414 billion, a 452% increase, and U.S. trading in foreign stocks expanded from $18 billion to approximately $206 billion, a 1,044% increase. Recent trading volume in the securities markets, while remaining above the record highs achieved in 1986, generally fell short of the new record levels of 1987. This occurred largely as a result of declines in the participation of individual investors, in part because of concerns arising out of the October 1987 market break and subsequent price volatility. However, it is anticipated that trading volume will return to 1987 levels as volatility concerns are addressed and higher levels of investor confidence are restored. The data for 1989 indicate that such a trend is already in progress.

The size of the regulated population also grew significantly. The number of registered broker-dealer firms, currently 12,000, has increased 77% since 1980. These firms have approximately 30,000 branch offices and 432,000 registered representatives, amounting to increases of about 280% and 120%, respectively, since 1980. Also, the scope of the Commission's regulatory concerns has broadened because many financial institutions, such as banks and savings and loan associations, have recently extended the range of their securities activities. Moreover, the 1986 amendments to the Exchange Act gave the Commission additional oversight responsibility for approximately 77 government securities brokers and dealers (mostly large firms) and three clearing agencies that have registered with the Commission for the first time.

In addition, markets for new and more complex products are rapidly emerging. In the past five years, for example, exchange trading was initiated for options contracts on a variety of debt instruments, market indexes, and foreign currencies. Hybrid instruments, such as debt instruments with principal or interest payments pegged to stock market movements, have proliferated. The staff has devoted significant resources to studying and analyzing the market impacts of new products and trading strategies, particularly program trading in a variety of forms, that have been made possible by index options and related new instruments introduced in the futures markets. The new instruments and surging activity have given rise to new products, new trading processes, and the further expansion and redesign in all existing markets of automated systems for trading and transaction clearance and settlement.

Increased pressures on program resources also have emanated from the need to keep abreast of other major market developments, such as the wave of corporate mergers and takeovers during the past several years. For example, significant staff time has been spent assessing and providing advice on trading practices regulations dealing with tender offers. The staff also is required to maintain close liaison with Commission enforcement staff to curtail major abuses such as illegal insider trading and fraudulent blank check and penny stock distributions.

The workload data included in the following narrative and appended tables should be viewed in the perspective of the dual role of the agency. The Commission is a supervisor of the SROs, which are entrusted with immediate responsibility for carrying out legislative objectives relating to the securities markets. When that supervision reveals that SROs are not meeting a regulatory need, the Commission may act to prompt SRO responses. This means that SRO-derived workload (e.g., review of SRO proposed rule changes) can vary based on the availability of Commission resources to initiate or otherwise bring about a required response. Similarly, resource availability can determine the adequacy and timeliness of a response. Where self-regulation cannot appropriately address a perceived need, the Commission may assume its other important role, that of direct regulator. In this regard, resource availability is a principal factor governing workload quantity and quality.

1989 Program Evaluation

Market Oversight: The staff conducted 22 inspections of the trading market facilities, market surveillance, and clearance programs of SROs. Of these, the staff conducted general examinations at three depository clearing agencies and at the American Stock Exchange (Amex) and the Chicago Board Options Exchange (CBOE). The Amex inspection included a review of the changes in specialist operations initiated by the exchange following the October 1987 market break. The staff also inspected the NASD's member advertising review procedures, the operations of the New York Stock Exchange's (NYSE) Market Trading Analysis Division and

Department of Enforcement, and the NASD's procedures for monitoring members' mark-up practices in principal retail sales of low-priced equity securities. In addition, the staff continued its in-depth studies of market volatility issues associated with program trading. A progress report on program trading was sent to Congress analyzing recent trends and trading strategies and the applicable changes in SRO rules and procedures adopted following the October 1987 market break. Finally, in May 1989, the CBOE consented to a Commission disciplinary order censuring the exchange for certain failures to enforce its rules uncovered by the staff.

In the broker-dealer examination program, the staff completed 328 member oversight and 148 cause examinations. The number of cause examinations increased by 66% over 1988 to cover sales practices more extensively, particularly in light of abuses encountered in the penny stock market. For similar reasons, the selection of firms for oversight examinations focused more heavily on penny stock firms. The average time spent by the staff on broker-dealer examinations climbed substantially--about 12%--in 1989 due to the increased emphasis on cause examinations and sales practice abuses in the penny stock market, resulting in a 22% reduction from 1988 in the number of oversight exams conducted. Nonetheless, more than half of the penny stock firms examined became the subject of a formal investigation by enforcement staff and, overall, the number of enforcement referrals climbed 13% during the year. In addition, the staff augmented its liaison work with federal and state agencies and actively participated in the Commission task force on penny stock fraud. The staff also worked closely with the Department of the Treasury to combat money laundering practices involving securities firms. Further, special purpose on-site examinations were initiated to evaluate broker-dealers' procedures for complying with the supervision requirements (known as Chinese Wall requirements) of the Insider Trading and Securities Fraud Enforcement Act of 1988 which were designed to prevent misuse within a firm of material, nonpublic information.

Rulemaking and Interpretation: The SROs filed 326 proposed rule changes. Of these, 211 (65%) were acted upon within the Exchange Act's 90-day statutory period and the time to act on the remainder was extended by SRO waiver. The staff's work focused heavily on matters growing out of the ongoing internationalization of the markets, the proliferation of new trading instruments, and the aftermath of the October 1987 market break. Some key SRO rules approved by the Commission were as follows:

- The principal exchanges and the NASD instituted uniform, coordinated circuit breakers, in the form of standards for halting trading simultaneously in stocks and related options and futures for brief periods when extreme price volatility is encountered. The circuit breakers were formulated in conjunction with the Commodity Futures Trading Commission (CFTC).

- The NYSE prohibited inter-market frontrunning involving futures trading.

- The NASD authorized the creation of an automated execution system for limited price buy and sell orders for certain active over-the-counter securities.

- The Amex introduced a new index option based on market prices of depositary receipts for foreign securities.

- The CBOE introduced a new option class based on current U.S. Treasury bill market rates.

In the area of securities clearance and settlement, the impacts of the globalization and diversification of the markets also were readily apparent. The Commission, for example, granted applications for temporary or permanent clearing agency registration for (1) the Participant Trust Company to clear mortgage-backed securities, (2) the International Securities Clearing Corporation, a National Securities Clearing Corporation (NSCC) affiliate, to work on upgrading the settlement of transnational business, and (3) the Intermarket Clearing Corporation (ICC), an Options Clearing Corporation subsidiary, to facilitate the cross-margining of options and futures-related trades, as recommended in several studies of the October 1987 market break. In order to increase the efficiency of the markets and respond to needs revealed during the market break, the Commission approved NYSE, NSCC, and NASD proposals which will permit the future adoption of same-day or next-day trade comparison systems for a substantial segment of the equities markets.

In other significant SRO actions, the Commission approved major revisions in the arbitration codes of the principal exchanges and NASD that are designed to improve the arbitration process and to enhance the procedural fairness of their systems. These changes were, in large part, initiated by the Commission, which worked closely with the Securities Industry Conference on Arbitration. Also, the Commission adopted a rule which, over a two-year period, repeals the rules of the options exchanges that presently prevent them from commencing trading in certain options classes already traded on other exchanges (multiple options trading). This action will end the present joint exchange lottery system for allocating to a single exchange new classes of options on exchange-listed stocks. The rule allows each exchange to decide whether to engage in multiple options trading, initially under a pilot program outlined in the Commission rule, in competition with other markets. Significant matters under active consideration at year-end included NYSE and CBOE proposals to establish markets in baskets of securities, continuing studies of SRO systems capacity, particularly under stress conditions, and MSRB plans to create a repository for municipal securities disclosure documents. Further, the staff monitored meetings of the SROs and assisted them in developing interpretations of the Commission's 1988 rule directing that their trading facilities be denied to issuers acting to disenfranchise their voting shareholders.

The staff developed 18 SEC rule proposals and interpretive releases. This activity included the adoption of important rules and amendments which (1) facilitated the internationalization of markets and reduced unnecessary regulatory burdens by clarifying the applicability of the broker-dealer registration requirements to foreign securities firms, and (2) responded to problems identified by the Commission in its investigation of the Washington Public Power Supply System default by detailing the disclosure and due diligence obligations of municipal securities underwriters. The Commission also issued a release soliciting public comment on a conceptual approach to the regulation of U.S. based activities by foreign securities firms that would recognize comparable regulatory systems of the firms' home countries. Moreover, to address penny stock abuses, the Commission adopted or issued for public comment several proposed rules and rule changes to help protect investors from high-pressure, fraudulent sales campaigns and to reduce the incidence of market price manipulation often accompanying such solicitations. Additionally, the Commission published a proposal to increase, for the first time in 14 years, its minimum net capital requirements for brokers and dealers and, in response to liquidity and financial concerns raised by the October 1987 market break, proposed to extend the net capital financial responsibility rule to exchange specialists. The staff also processed 617 private sector requests for written interpretive assistance and exemptive relief under applicable Commission rules and statutory provisions.

National Market and Clearance Systems: The Commission acted on 44 SRO rules and system plan amendments. The Commission approved, for example, ICC's initial cross-margining rules and the rules of seven U.S. clearing agencies creating the Securities Clearing Group, which has been organized to facilitate the flow among its agency participants of information necessary for the financial and operational surveillance of clearing members. In addition, the staff actively reviewed three significant matters that evolved from Commission efforts to foster innovation and sound competition in and among markets. These matters were:

- publishing for comment a release discussing ways to enhance the markets by addressing the basic structural issues associated with multiple options trading;
- issuing a release seeking comment on a joint SRO plan for the dissemination of composite last sale and quotation data concerning NASDAQ securities admitted to unlisted trading privileges on exchanges; and
- publishing a proposed rule that would establish a regulatory framework for private proprietary trading systems to help ensure compliance with Exchange Act objectives under standards appropriately comparable to those governing existing markets and market participants.

The staff also consulted extensively with an American Bar Association (ABA) committee examining possible federal and state legal impediments to efficient and safe clearance and settlement.

Registration: The staff examined 1,881 broker-dealer registration applications, including those of municipal securities dealers and government securities firms, within the statutory timeframes and 3,024 registration withdrawal or cancellation notices. The unusually large number of withdrawals and cancellations resulted largely from a special effort over the last several years to contact apparently inactive registrants. The staff processed 8,114 financial reports and 10,021 registration amendments filed by broker-dealer firms. About half of the amendments received limited review, and the balance were accepted without receiving any substantive review. The staff processed 2,469 transfer agent annual reports, registrations, amendments, and withdrawal and cancellation notices, including those of registered and unregistered banks. The staff also updated the Commission computer databases with information contained in the registrations, amendments, and related filings of the broker-dealers and transfer agents. Finally, the staff began the first segment of a pilot program to test the feasibility of electronic processing of broker-dealer registrations using the Central Registration Depository (CRD) system developed by the NASD and the North American Securities Administrators Association.

1990 Appropriation

Market Oversight: Increased examination resources will permit inspections of 24 SRO programs, a 9% increase over 1989, with continued emphasis on improving market surveillance procedures, internal controls and customer protection. In addition, the staff expects to conduct 330 SRO member oversight examinations, about equal to 1989 results, and 160 broker-dealer cause examinations, representing an increase of 8% over 1989. Although significant productivity benefits from additional staff years will not be fully realized in 1990 due to the time needed to recruit and train qualified staff, there will be enhancements of the depth and overall quality of examinations. The staff will continue focusing on detecting sales practice violations and market manipulation schemes, particularly those involving penny stock broker-dealer firms and blank check offerings. The staff also will examine government securities firms not previously inspected and will assess the SROs' examination of Chinese Wall systems adopted by member firms pursuant to the 1988 insider trading legislation. Moreover, the staff will be augmented by a newly-created capital markets unit, a small core group whose main responsibility will be to monitor the credit and trading risks increasingly undertaken by the major U.S. broker-dealer firms and their largely unregulated affiliates in the U.S. and abroad. Increased staffing also will allow the Commission to establish a regular inspection cycle for SRO arbitration systems. This is needed because recent Supreme Court decisions, together with rising litigation costs, make it likely that over 5,000 private disputes will be resolved though SRO arbitration in 1990. This contrasts with 830 cases in 1980 and 2,796 cases in 1985. The increased use of SRO arbitration and the fact that customers can be compelled to accept arbitration require greater Commission supervision, which is now only intermittently performed, of the operational effectiveness and procedural fairness of SRO arbitration systems.

Rulemaking and Interpretation: The staff will act on approximately 340 SRO proposed rule changes, of which 70% will be reviewed within the 90-day statutory period. Reviews of more complex rules, such as SRO proposals to introduce new trading vehicles or more efficient methods for trading and settling transactions, will extend beyond the statutory period with the SRO's consent. The staff expects to develop 27 SEC rule proposals and interpretive releases concerning regulation of securities professionals and the markets, substantially reducing a backlog caused by a diversion of staff resources to the market break studies and follow-up measures. The staff will respond to approximately 680 requests for written interpretive advice and exemptive relief, a 10% increase over 1989. The Commission will continue to address the problems of international trading and the issues presented by the proliferation of new securities products and trading strategies, such as program trading, and will act on the pending NYSE and CBOE proposals to trade in baskets of stocks. Also, determinations will be made regarding the MSRB proposal to establish a repository of municipal securities disclosure documents and the NASD proposal to create a system for distributing and trading securities eligible for the proposed Rule 144A safe harbor (see page I-6). In addition, the staff will continue developing data and testimony to aid in Congressional consideration of such key matters as revisions to the Glass-Steagall Act and tender offer reform. The SROs and their listed companies will be assisted in implementing the stockholder disenfranchisement rule. A central concern of the staff will be to continue implementing the market break study recommendations. For example, the Commission will examine further the feasibility of shortening the current five-day settlement cycle for equity securities transactions and the means for better coordinating intermarket clearing for futures and options and related functions. These activities will require staff consultation with the SROs, clearing agencies, their members, the CFTC, and other interested regulators and organized groups such as the International Organization of Securities Commissions and the President's Working Group on Financial Markets.

National Market and Clearing Systems: The staff will act upon approximately 50 SRO rule amendments and modifications to joint SRO plans relating to the establishment of national market and clearance systems, a 14% increase over 1989. The staff will encourage further expansion and upgrading of the national systems' intermarket and international linkages and continue its participation in the work of the ABA committee on clearing. The staff will act on pending SRO proposals seeking permanent, joint price reporting and quotation facilities for NASDAQ securities with unlisted exchange trading privileges. A decision will be made on an appropriate regulatory framework for proprietary trading systems.

Registration: The Commission intends to enter the CRD system operated by the NASD for one-stop filing of broker-dealer documents. Ultimately, this will permit broker-dealers to submit one filing of a uniform registration form and amendments to the CRD system for review by the Commission, NASD, and appropriate state regulators. Although the filings will be received by the NASD, the registration staff will continue to review the filings pursuant to statutory requirements. The CRD system will make the filings and the NASD's extensive database available to the Commission staff via a computerized communications network. The staff will be able to call up the filings on a computer screen and review them electronically and in greater depth. In addition to improving the efficiency of the registration process and providing better access to critical and comprehensive data, the new program will result in substantial cost savings to registrants by eliminating multiple filings with several regulatory bodies.

The staff expects to review about 2,000 broker-dealer registration applications, a 6% increase over 1989. The staff will review only about 1,600 registration withdrawal or cancellation notices since the staff will have completed substantially the special effort to remove inactive registrants from the industry. This level of withdrawal or cancellation represents a normal exit rate for broker-dealer firms. Also, 11,000 amendments, an 11% increase over 1989, will be processed with about half undergoing a limited substantive review. About 8,900 broker-dealer financial reports will be processed, representing a 10% increase over 1989. Approximately 2,700 transfer agent annual reports, registrations, and other filings will be received and processed by the staff.

1991 Program Request

The Commission has found that the program's staffing needs are determined by the (1) complexity and diversity of the financial services industry, (2) levels of trading activity and the proprietary risk positions assumed by the principal securities broker-dealers, (3) number of registered entities, and (4) internationalization of the securities markets. The combination of small increases in staff size, increases in productivity, and hard work (including donated staff time) has allowed the program to support a portion of the dramatic industry growth in the 1980s. It is clear that the market structure and regulatory issues resulting from a growing and changing domestic and international marketplace will have a lasting effect on the program's direction and staffing needs. In addition, the impact of possible statutory changes has not been projected in the program's workload data. For example, there has been no estimate of the effect of proposed legislation to modify or repeal the Glass-Steagall Act.

Market Oversight: The staff will be able to keep pace with the SROs' growing responsibilities and will maintain an active presence to ensure an influential U.S. role in the evolving international trading markets and their emerging surveillance systems. For example, the additional resources will permit the capital markets unit to examine and monitor the risks and exposures presented by the major securities firms and their unregulated affiliates in the U.S. or abroad. As a result, the Commission will be able to anticipate better where a significant risk of exposure to the U.S. financial markets might arise and help ensure that firms and SROs, as well as U.S. and foreign government agencies, have proper controls in place to address the credit and trading risks concerned.

The staff will broaden the coverage of the broker-dealer and transfer agent examination programs in other key respects, such as increasing the frequency of examinations targeted at special problems such as penny stock firms. Also, necessary resources will be allocated to establishing regular oversight of SRO arbitration systems. In all, the staff will conduct 27 SRO program inspections, 360 SRO member oversight examinations, and 190 broker-dealer cause examinations, representing increases of 13%, 9%, and 19%, respectively, over 1990.

Rulemaking and Interpretation: Additional staff resources will be critical to sustain the Commission's leadership role in promoting standards for market integrity and efficiency consistent with the multiple forces affecting the financial services sector. For example, the staff will continue addressing the market effects of new products and complex trading strategies. The staff will assist actively in developing global trading technologies which require an integrated, coordinated multinational regulatory structure for securities markets world-wide. The staff will develop about 32 SEC rule proposals and interpretive releases, and respond to approximately 725 interpretive and exemptive requests, representing increases of 19% and 7%, respectively, over 1990. The staff will review 365 SRO proposed rule changes, of which 290 (79%) will be reviewed within the 90-day statutory period.

National Market and Clearance Systems: The staff will act on 55 SRO rule and plan amendments relating to the national systems, a 10% increase over 1990. Resources will be available to complete substantially on-going projects and begin implementing new programs for further expansion of the systems' participation and services, including integrating proprietary trading systems in line with statutory objectives. Programs to address internationalization issues will proceed expeditiously with particular emphasis on achieving significant efficiencies through transnational trading and settlement. For example, more efficient and compatible clearance and settlement systems and linkages will be developed among clearing firms, exchanges, and other securities organizations. It is essential that linkages be sound and adequately safeguarded to ensure system integrity and to minimize the potential for default and losses.

Registration: Aided by the CRD system interface, the staff will review all of the estimated 2,150 registration applications and 1,750 withdrawal and cancellation notices. In addition, the staff will review all of the 12,100 amendments filed for disciplinary actions and similar substantive problems. This level of review represents a 100% increase over 1990 when only 50% of the amendments received substantive review. The Commission's database, including records concerning the 9,300 expected broker-dealer financial reports, will be updated expeditiously. The staff will more successfully help the Commission identify and remove potential violators from the securities industry, prevent the dissipation of customer assets held by firms leaving the business, and reduce the opportunities for consequent investor losses and costly Commission and SRO enforcement actions and private litigation.

Industry growth has been accompanied by an increasing volume of other filings, particularly those emanating from the SROs. These filings are not included in Commission database systems presently operated by the registration staff. The additional staff will permit upgrading the databases, extracting pertinent data for analysis, and performing quality control checks.

Supervision and Regulation of Securities Markets

Workload Data

Activity	1989 Actual	1990 Estimate	1991 Estimate
Market Oversight			
SRO program inspections	22	24	27
SRO member oversight examinations	328	330	360
Transfer agent inspections	117	120	125
Broker-dealer cause examinations	148	160	190
Re-entry applications	76	90	100
Staff Years	157	180	192
Rulemaking and Interpretation			
SRO proposed rule changes	326	340	365
SEC rule proposals and interpretive releases	18	27	32
Interpretive and exemptive request correspondence	617	680	725
Analyses of registrations referred by Corporation Finance	464	500	530
Analyses of proposed enforcement actions	269	275	300
Analyses and reports	82	95	105
Staff Years	64	73	81
National Market and Clearance Systems			
SRO rules and system plan amendments	44	50	55
SEC rules and interpretive releases	12	14	15
Analyses and reports	34	40	42
Congressional, governmental, industry and public correspondence	45	50	55
Staff Years	11	13	14
Registration			
Brokers and Dealers: 1/			
Registration applications filed and reviewed	1,881	2,000	2,150
Amendments filed	10,021	11,000	12,100
Financial reports filed	8,114	8,900	9,300
Registrations withdrawn or cancelled	3,024	1,600	1,750
Transfer agents:			
Registrations and reports filed	2,469	2,700	2,900
Staff Years	13	13	17
Total Staff Years	245	279	304

1/ During 1989, 23% of the broker-dealer applications, amendments and withdrawals were returned to the registrant for correction of major deficiencies.

Investment Management Regulation

Executive Summary

Organizations		1989 Actual	1990 Estimate	1991 Estimate
Investment Management		102	105	112
Public Utility Regulation		14	18	22
Applications and Reports Services		19	19	20
Regional Offices		89	109	130
Total Staff Years		224	251	284
Cost:	Salaries and Benefits ($000)	$10,911	$13,264	$16,168
	Non-Personnel Expenses ($000)	3,595	4,455	5,167
Total Program Cost ($000)		**$14,506**	**$17,719**	**$21,335**

The Investment Management (IM) Regulation program seeks to minimize the risk of investor loss through the review of disclosure documents, regulation, and inspection of investment companies (ICs) and investment advisers (IAs). The IM program also overseas the activities of public utility holding companies. In 1991 the IM program must be positioned to undertake the challenges raised by industry growth, complexity, and internationalization of securities markets.

Growth: Between 1983 and 1991, the number of ICs increased from 1,830 to 3,600 (97%), the number of IAs increased from 5,445 to 16,350 (200%), and the assets managed by IAs exploded from $670 billion to over $4.6 trillion. Industry growth of this magnitude will require increased staff levels to maintain minimum program effectiveness. During 1991, the staff will review 50% of IC registration statements and 100% of IA registration statements. Increases for the regional offices will allow the staff to inspect 24% of the ICs and 9% of the IAs.

Complexity: Evolution of the financial services industry has made the work of the IM program more difficult. Development of complex financial products, such as asset-backed securities and market basket products, and creation of new operating methods require analysis by the staff in order to formulate appropriate regulation. Industry consolidation has created additional issues which must be addressed by the staff, such as mergers of investment companies, tender offers of closed-end funds, and adoption of anti-takeover tactics.

Internationalization: Internationalization of the securities markets presents many complex challenges for the program. The staff will analyze issues such as extra-territorial application of U.S. laws, reconciliation of contradictory foreign laws, and custody problems, as well as devise ways to make American ICs more attractive to foreign investors.

In addition, the Investment Management program is responsible for regulation of public utility holding companies. Program resources for this endeavor will be increased in 1990 and 1991. Additional staff will reduce the backlog of complex filings by 76% and allow for expeditious processing of an anticipated increase in the number and complexity of applications filed under the Public Utility Holding Company Act.

Investment Management Regulation

Mission

The Investment Management Regulation program strives to minimize the financial risk to investors from fraud, mismanagement, self-dealing, and misleading or incomplete disclosure in the investment company (IC) and investment adviser (IA) segments of the financial services industry, without imposing unnecessary costs and burdens on regulated entities. An IC, which is usually managed by an IA, invests stockholder capital in accordance with policies described in a prospectus. Money market and common stock mutual funds are examples of the more popular forms of ICs. IAs provide advice to investors for a fee, according to terms described in registration material filed with the Commission. Examples of IAs include pension fund managers and other institutional money managers, insurance companies offering certain types of securities-related products, and most financial planners.

The Investment Management Regulation program also ensures that financial transactions of public utility holding companies are conducted in the most economical manner possible, with costs distributed equitably among consumers and investors. A public utility holding company is an entity that owns all of the stock of several operating electric or gas companies. The program is designed to make sure that registered interstate holding companies, engaged in the electric utility business or the retail distribution of gas, operate in the public interest and are financially sound. Additionally, the staff monitors the activities of exempted intrastate utility holding companies.

Disclosure: The review of disclosure documents filed by ICs and IAs protects investors by improving compliance with the Investment Company and Investment Advisers Acts of 1940 (1940 Acts), the Securities Act of 1933 (1933 Act) and the Securities Exchange Act of 1934 (1934 Act). IC disclosure documents include registration statements and their annual amendments, proxy statements, periodic financial reports, and semi-annual reports filed on Form N-SAR. The review process determines that an entity's policies and procedures are presented clearly and that proposed activities are consistent with the law.

Investment company registration documents provide essential information concerning their advisers, investment objectives and restrictions, past investment performance, and fees charged to investors. Filings are reviewed to determine that investors are provided information needed to make informed decisions. Since most ICs sell their shares continuously, many registration statements must be updated annually by post-effective amendment. Generally, initial registration statements are reviewed by the staff, and necessary changes are obtained before they are declared effective. Some IC registration statements and most post-effective amendments are selectively reviewed. Securities holdings reported by institutional investors are received and made public, but are not reviewed by the staff.

Regulation: Regulatory activities include rulemaking, responding to requests for exemption from statutory requirements, and providing interpretive advice on the application of statutes and rules. These activities increase investor protection, reduce burdens and costs to the industry, and facilitate legitimate activities by registrants. The 1940 Acts authorize rulemaking and require action on exemptive requests. Interpretive advice, while discretionary, is an important way of assisting registrants in applying statutes and rules to new financial instruments or methods of operation developed in response to changing market conditions.

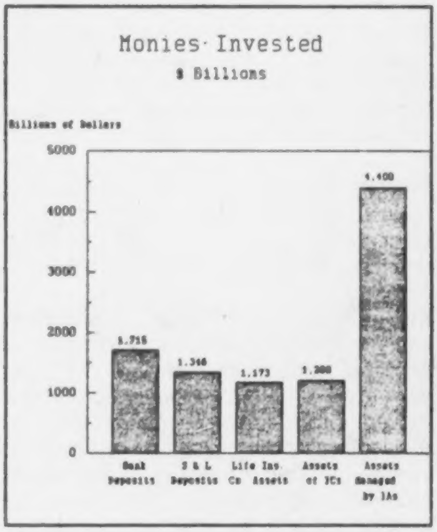
Public Utility Regulation: The program is also responsible for regulation activities conducted pursuant to the Public Utility Holding Company Act of 1935 (1935 Act). The 1935 Act requires interstate holding companies to register with the Commission if they have subsidiaries engaged in generating, transmitting, or distributing electric energy or are engaged in the retail distribution of gas. The 1935 Act is unlike any other statute administered by the Commission in that it prohibits registered companies from undertaking the sale or acquisition of securities, utility assets or any interest in other businesses and certain other financial transactions without prior Commission authorization. It also requires that the Commission implement rules to achieve the goals of the 1935 Act, and periodically examine holding company operations. The staff provides guidance on the 1935 Act and rules through interpretive and no-action advice. Records of subsidiary service companies are inspected, often in conjunction with the Federal Energy Regulatory Commission, to maximize efficiency and minimize disruption to the companies.

Inspections: ICs and IAs are inspected to determine the accuracy of disclosure in registration statements and compliance with statutory provisions. Periodic unannounced inspections deter abuses and minimize the risk of loss to investors. Examiners analyze operating and control systems, review books and records, and discuss investment and operational activities with management. When appropriate, a letter identifying deficiencies and requesting corrective action is sent to the registrant or, in egregious cases, the inspection report is referred to the enforcement program for further consideration. Resolving problems through deficiency letters avoids costly private litigation and Commission enforcement action.

Program Environment

Financial markets, financial institutions and the investing public face many changes in the 1990s. The economic expansion of the last decade has slowed. Forces such as deregulation of financial institutions, consolidation of industries by merger and acquisition, and internationalization of securities markets are effecting change in the financial services industry.

Industry growth: Sustained economic expansion since 1982 has resulted in significant growth in the amount of money available for investment. As a result, there has been unprecedented growth in the number and size of ICs and the amount of money under management by IAs. The graph at right depicts the amount of monies invested in or by various financial institutions; assets managed by IAs vastly exceed those held by all other types of institutions.



There were 3,544 ICs as the 1990s began, a 94% increase from 1983. Assets of ICs were $1.2 trillion, a 281% increase from the beginning of 1983. Many ICs combine several separate portfolios or investment series in one 1940 Act registration. Some unit investment trusts (UITs), for example, have more than 900 separate series grouped under one 1940 Act registration. The IM program must oversee each portfolio, effectively equating the workload to a registered population of 16,000.

Assets of ICs continue to grow, setting new records. Investors reacted to recent inflationary fears and high interest rates by investing a record $89 billion in money market funds during 1989. Money market fund assets at the beginning of 1990 totaled $415 billion. IM staff must monitor these funds closely to ensure adequate investor protection. During 1989 net sales of other mutual funds also increased, resulting in the highest level of IC assets ever reported. The growth of IC assets over the last several years to $1.2 trillion has created a major national financial intermediary, giving the IC industry parity with banks, savings and loan associations, brokerage houses, and insurance companies, as shown in the chart above. To the extent that individuals invest in the securities markets, they do so increasingly through ICs rather than by direct purchase of common stock or bonds. The securities industry has introduced many new products, such as $23.5 billion of closed-end funds since the 1987 market break. As of October 1, 1989, net assets of closed-end funds were approximately $51 billion. Some closed-end funds have been used as vehicles for investing in foreign securities markets which may not otherwise be accessible to American investors. At the beginning of 1990, there were over 56 million shareholders in ICs representing 23% of all Americans.

As the country's population ages and stays in the work force longer, the amount of money in pension fund assets increases. A substantial portion of these assets are managed by registered IAs. Between the beginning of 1983 and 1990, the number of registered IAs increased by 196% to 16,239, and the amount of assets under management grew by 557% to $4.4 trillion. This accounts for over 17% of all financial assets owned in the U.S. As the amount invested increases, the potential for fraud likewise increases; the program made a total of 108 enforcement referrals regarding IAs and ICs in 1989.

Industry Evolution: While Congress has yet to enact legislation that would restructure the financial services industry, a new environment is evolving. Changes have brought about greater competition, internationalization of the marketplace, and advanced product development and delivery mechanisms. Further evolution will result in cross-industry competition and mergers.

Evolution of the industry has manifest itself in many ways. ICs and IAs are investing in new and complex financial products such as asset-backed securities, foreign securities and currencies, new types of options and futures (e.g., Eurodollar futures), "stripped" securities, and limited partnerships. Stock exchanges are creating novel market basket products that resemble ICs. In addition, ICs are developing new operating methods such as payment of uniform monthly dividends that may result in returns of capital and use of fund assets to pay for distribution expenses. The increasing complexity of securities and the development of new operating methods have created a need to establish accounting policies to reflect properly the results of these changes in financial statements. Finally, many ICs are investing in high yield corporate debt securities (junk bonds); these ICs require close monitoring in response to concerns about their risks, volatility, liquidity, and pricing.

Industry Consolidation: Financial services companies are consolidating, even while the industry continues to grow. The number of proxies received, that reflect IC mergers is increasing, as is the number of ICs that are liquidating and filing applications to withdraw from registration. There are a growing number of take-over attempts of closed-end funds, which trade at a discount from net asset value. In response, many of these funds have developed tactics to reduce the discount, including periodic tender offers or repurchases, guaranteed distribution plans, and shareholder votes to convert to an open-end fund. Variable life products have also begun to consolidate and reorganize, and this trend seems likely to continue. Exemptive applications and proxies are filed as a result of these transactions, which require detailed analysis by the staff.

Internationalization: Technological advances and the removal of restrictions on foreign participation by many of the world's securities markets have increased the degree of internationalization. ICs and IAs are increasingly investing in markets located abroad. There are 208 ICs with assets of $34.4 billion which invest more than half their assets in foreign securities; approximately $16 billion more in foreign securities are held by UITs for a total of $50.4 billion. Other funds invest lesser portions of their assets in foreign securities. In addition, there are at least 69 money market funds that invest in U.S. dollar-denominated obligations of foreign banks, foreign corporations and other foreign issuers. Similarly, approximately 200 foreign IAs are registered with the Commission. A great many new products which require cross-border marketing are also being developed. For instance, ICs registered in the U.S. and investing in domestic securities are being marketed to U.S. and non-U.S. investors alike.

Some investment advisory companies have initiated joint ventures with foreign securities or financial services firms to gain entry into closed or restricted foreign markets. Other types of creative business structures are also being used, such as special foreign trusts which invest in securities of the host country and designate U.S.-organized ICs as the sole beneficiaries of the trusts. Some foreign countries are easing restrictions to allow outside investor and management participation. The European Community's (EC) Directive on Undertakings for Collective Investment in Transferable Securities (UCITS) became effective in October 1989 and allows investment companies meeting certain minimum standards and registered in one EC member country to sell shares in all member countries.

These developments create numerous complex issues such as extra-territorial application of U.S. laws and accompanying jurisdictional concerns, reconciliation of contradictory foreign laws, formal and informal arrangements for information sharing with foreign authorities, cross-border marketing of IC shares, harmonization of audit and accounting standards, accountant liability, and custody problems. Indeed, there are significant differences among the regulations of different nations in terms of the nature, purpose, and degree of investor protection. Although some progress has been made toward standardization and mutual recognition, major differences remain among world securities market regulatory structures.

The ability to move capital quickly across national boundaries and to engage in securities transactions through off-shore entities provides new mechanisms for the unscrupulous to engage in securities fraud and presents new obstacles for law enforcement agencies. It is becoming increasingly difficult and costly for the Commission to regulate these entities because the variables are so numerous and complex. This is particularly true if an IC wants to organize itself in one country, invest in one or more other countries, and sell interests in the fund to investors in yet additional countries. Individuals investing internationally with ICs or IAs are often not fully aware of the risks involved and look to the Commission's regulation of these entities to protect their interests.

Self-Regulation of IAs: A possible alternative to direct federal regulation of IAs is the creation of one or more self-regulatory organizations (SROs) to assume primary jurisdiction for regulation and inspection of IAs with the Commission retaining an active oversight role. During 1989, the Commission submitted a proposal to Congress to amend the Investment Advisers Act to allow for creation of one or more SROs for IAs. The enactment of such legislation would allow associations of IAs to register with the Commission as SROs and to regulate directly, with the exception of investment advisers to ICs, 100% of the IA population. There is a considerable difference of opinion within the industry over the usefulness of an SRO for IAs. Because of the length of time necessary to obtain enabling legislation and uncertainties surrounding this alternative, no change is anticipated in the present system of IA regulation before 1992.

Growth in Insurance Products: The 1986 tax law left few tax-deferred investments available for investors. As a result, insurance companies began offering an increased number of tax-deferred products in the form of variable life insurance and variable annuities. The volume of tax-deferred insurance products has placed new demands on staff for disclosure review and analysis of exemptive requests. For example, the number of new registration statements for insurance company products filed annually have increased 97% since 1985, while related exemptive applications have increased 83%. These products will pose numerous challenges to the staff in the years ahead.

Current Staffing vs. Industry Growth and Complexity: The Investment Management Regulation program is now critically understaffed due to two primary factors. First is the explosive growth in the IA and IC industries since 1983. Second is the advent of increasingly complex financial transactions and products utilized by ICs and IAs. Staffing resources have not kept pace with these industry developments. It is imperative that the program receive additional staffing in 1991 so that it may respond more appropriately to continued industry growth and address new issues arising from foreign investments, market internationalization, deregulation, consolidation and the new financial products offered by the industry.

To demonstrate the disparity between industry growth and program staffing, comparisons can be drawn between the number of registrants and the amount of assets assigned per staff year. In early 1983, the ratio was one staff year to 39 registrants with a total of $4 billion in assets. At the end of 1989, the ratio was one staff year to 94 registrants and $26.5 billion in assets. Because the industry and financial transactions are changing rapidly, procedures implemented to increase staff productivity in dealing with the expanding number of registrants are not sufficient to enable the staff to keep pace. If the staff is to continue adequate levels of disclosure, regulatory, and inspection activities, additional staff are needed to provide effective regulation of existing entities.

Complex financial products and transactions demand increasing amounts of staff time. In addition to responding to requests for exemption and providing interpretive advice to registrants, staff in the regulation area spend much of their time responding to letters and telephone calls from non-registrants.

During 1991, the staff will prepare for the first phase-in of the Electronic Data Gathering, Analysis and Retrieval (EDGAR) system. The long-term impact of this automated filing system will be to increase the effectiveness of staff reviews. However, the program anticipates a short-term negative impact on productivity while the staff becomes familiar with the new review procedures. Therefore, productivity of the review staff during 1991 is expected to be somewhat less than productivity in prior years.

Public Utility: The electric and gas utility industries are undergoing fundamental changes in their operations, due primarily to federal regulatory initiatives. The Federal Energy Regulatory Commission and the Department of Energy are advocating more competition in construction of generating plants and in the transmission and distribution of electric energy. As nuclear power plants age, the industry will develop and confront the staff with a host of new financing arrangements to cope with the costs of decommissioning largely depreciated nuclear plants and disposing of nuclear waste. The 1935 Act is a focal point in shaping these utility industry developments through mandatory review of financial transactions and rulemaking to address new issues.

The assets of registered holding company systems and exempt holding companies combined represent about 61% of the assets of all investor-owned electric and gas utilities. The assets of registered public utility holding companies constitute 18% and 11% of the assets of all investor-owned electric and gas utilities, respectively. The staff also currently reviews the financial conditions and capital structure of 118 exempt public utility systems.

1989 Program Evaluation

Disclosure: The disclosure staff completed implementation of new rules pertaining to fee tables and advertising. The staff reviewed and commented on more than one-half of the 1,293 new IC registration statements, including 62 initial registration statements from insurance companies entering the variable life products market, and 18% of the 8,077 post-effective amendments received. About 6,400 semi-annual IC reports were received on Form N-SAR. Approximately 40% of all ICs eligible to file their semi-annual reports electronically did so in 1989, an increase of 28% over the number filing electronically in 1988.

During 1989, the staff examined 3,000 IA registration applications and 1,271 registration withdrawal and cancellation notices within statutory time limits. Some 10,527 amendments were filed and received limited review, while 10,216 annual reports were filed with no review. Over 2,600 initial IA registrations with major deficiencies were returned to registrants and then resubmitted and re-examined for acceptance a second or third time.

Regulation: Staff completed work on 441 requests for exemption and 900 no-action letters. The number of routine exemptive applications decreased due to recently adopted rules establishing standard exemptions from the 1940 Act. There was a significant increase in applications received involving new types of investment products, such as asset-backed financing, including sale of loan assets by agencies of the U.S. Government. The staff reviewed applications by ICs to issue dual classes of stock and to purchase securities intended to serve as hedging instruments. There were significantly more applications for exemptions as a result of consolidation in the industry, such as relief to allow affiliated transactions, purchase of shares of other ICs, deregistration, and exchange offers at less than net asset value. Requests increased for exemptions for two-tiered real estate transactions resulting from changes in tax legislation. Growing investment by ICs in foreign securities resulted in more applications to allow ICs to invest in securities issued by foreign broker-dealers as well as more applications pertaining to other foreign investments by ICs. On the other hand, there were fewer requests for relief involving collateralized mortgage obligations due to a decrease in activity in the mortgage market.

In general, applications have become more complex and require more time for analysis. At year-end there were 210 exemptive applications requiring further staff action. The staff conducted one administrative proceeding on a contested application. The staff completed a detailed comparison of the Investment Company Act and the UCITS Directive as a basis for possible U.S. agreement with the European Community on cross-border recognition of ICs. The staff also discussed inspection information-sharing agreements with various foreign regulators to enable the Commission to monitor the foreign activity of registered ICs.

The regulation staff issued 12 rule proposals and completed final action on six others. The Commission adopted rules proposed by the staff which include:

- requiring fee tables in variable annuity registration forms;
- allowing ICs to make exchange offers;
- expanding the period allowed for ICs to select an independent public accountant; and
- providing for transition reporting requirements for ICs that change their fiscal year ends.

The Commission also proposed rules to:

- allow acquisition of foreign broker/dealer equity securities by ICs;
- permit ICs to acquire securities of foreign banks and insurance companies;
- allow ICs to organize as limited partnerships;
- simplify the prospectus required of closed-end investment companies; and
- exempt certain small IAs from the Investment Advisers Act.

The staff also drafted a legislative proposal to amend the Investment Advisers Act to establish SROs for advisers. Finally, the staff responded to approximately 22,000 oral inquiries from registrants and the investing public.

Public Utility: The public utility staff reviewed 184 of 188 filings received and issued 347 notices and orders regarding financial transactions. At year-end, the staff had 53 unprocessed filings of which 42 or 79% involved complex transactions.

The external financing of holding company systems approved by the Commission totalled $4.8 billion. Approximately $4.0 billion of this amount was long-term debt financing, while $871 million was equity financing. In addition, the Commission approved over $7.8 billion of short-term financing and $169 million of pollution control financing. The Commission authorized $664 million in capital outlays for nuclear fuel acquisition and oil and gas exploration and development. The Commission also authorized $2.6 billion of financing for the sale and leaseback of nuclear and coal-fired generating plants owned by two registered holding company systems. During the year, the Commission authorized $340 million of investments in qualified co-generation and small power production facilities and in energy management and audit systems.

Companies have been successfully encouraged to include several financing proposals in one application, thereby reducing paperwork and permitting the Commission to focus on the system's financing needs for the whole year. This efficiency has allowed the staff to provide greater technical assistance to state regulatory authorities that rely on the Commission's analyses and inspections.

The staff proposed two rules in 1989: (1) a rule to exempt registered holding companies from filing applications to issue and sell routine securities; and (2) a rule to clarify the limits of diversification by exempt holding companies.

Inspections: The staff completed inspections of 786 ICs which covered 22% of all registered ICs and $135 billion or 12% of total IC assets. Compared to 1988, the number of inspections decreased by 3% and the percentage of assets covered decreased by 46 percent. Several factors contributed to the decrease in IC inspections. First, the staff conducted inspections of more stand-alone funds than in prior years. Stand-alone funds are generally smaller in asset size but are high risk investments. Second, the staff focused on funds investing heavily in junk bonds. Inspections of both types of ICs require more time than examinations conducted in prior years. Finally, 1989 was the first full year that the rules were in effect for the standardized calculation of advertised performance for mutual funds; increased staff time was needed during each IC inspection to review compliance with these rules.

The staff completed 1,150 IA exams, covering 8% of all advisers, representing a 16% decrease from the number completed in 1988. The IAs inspected had assets under management of about $250 billion. Fewer IA inspections were completed during 1989 because the IA program inspected more money managers than financial planners, but inspection of assets under management increased from 6% in 1988 to 11% in 1989. A money manager requires more time to inspect because the amount of assets under management usually exceeds the assets managed by a financial planner.

Recoveries for investors from inspections amounted to $1.5 million. In addition, IC and IA inspections resulted in 108 referrals to the enforcement program.

1990 Appropriation

The investment management program faces significant challenges in 1990. Further industry growth is anticipated. Assets under management by IAs rose $1 trillion in 1989 to $4.4 trillion at the beginning of 1990, a 29% increase. Additionally, the number of registered ICs and IAs increased during 1989, by 45 and 2,119, respectively. The staff expects approximately 56 new ICs and 2,500 IAs to register during 1990.

The program will continue to be challenged by an increasingly complex and diversified financial services marketplace. A slowing U.S. economy may have an adverse impact on high yield corporate debt and funds investing heavily in these securities. Appropriate regulatory and accounting treatment for the continuing array of complex new products must be developed by the staff. Growing public interest in ICs will ensure that the oversight of industry developments will be among the agency's most visible challenges in 1990.

Disclosure: The disclosure staff expects the number of total IC filings to increase by 13% over 1989. Staff will review and comment on 51% of the 1,296 new IC registration statements, 16% of the 9,444 post-effective amendments, and 41% of the proxy statements. The staff estimates that 6,440 IC semi-annual reports will be filed on Form N-SAR. It is expected that approximately 47% of all ICs will file these semi-annual reports electronically during 1990, an increase of 32% over the number filing electronically in 1989. Because of the increased complexity of IC financial statements the disclosure program will add a senior level accountant to strengthen the accounting staff.

Using the N-SARs filed electronically, the staff plans to create a comprehensive database of IC information. Information from this database will facilitate screening and selection of disclosure filings for review.

Disclosure personnel will fully review all 2,641 IA applications for registration and process 14,753 annual reports. The program will continue to perform a limited review of the 12,765 amendments received in order to apprise the inspection staff of any adverse information. All of the 2,409 registration withdrawal and cancellation notices will be reviewed and processed; regional office inspection and enforcement staff will be notified of any problems identified.

Regulation: The regulation program will issue 450 exemptive orders, respond to 910 requests for no-action letters, and handle 22,000 oral requests for interpretive advice. This represents a 1% increase in the number of exemptive orders issued from 1989, and an increase of 50% since 1981. However, the backlog of exemptive applications will increase to approximately 230, due to an anticipated increase in applications received. The number of requests for relief will continue to reflect new types of investment products that require additional staff time for review and analysis. In addition, consolidation of the IC industry will continue into 1990 and result in more applications for relief to allow affiliated transactions and the purchase of shares of other ICs. However, there should be fewer exemptive requests resulting from two-tiered real estate transactions since Congress discontinued the Low Income Housing Tax Credit.

The regulation staff will recommend that the Commission issue nine rule proposals and take final action on 13 others, including rules to:

- permit acquisition of foreign broker/dealer equity securities by ICs;
- allow ICs to organize as limited partnerships;
- exempt small, state regulated advisers from the Investment Advisers Act;
- codify certain exemptions from the Investment Company Act for flexible premium variable life insurance;
- clarify record preservation requirements of IC's holding foreign securities;
- allow ICs to impose sales loads on a deferred basis;
- amend the foreign custody rule;
- permit futures commission merchants to maintain custody of IC assets;
- exempt ICs that invest primarily in mortgage related assets and two-tiered real estate partnerships from the Investment Company Act; and
- revise unit investment trust advertisement of performance.

Public Utility: The public utility office will receive four additional staff years in 1990 which will be used to reduce the backlog of filings pending Commission approval. The backlog of filings is composed of routine and complex filings. The backlog of complex filings will be the primary focus of the additional resources. These filings require proportionately more staff time for review due to the complex financing and acquisition arrangements proposed. The staff expects to decrease the backlog of complex filings by 19% during 1990.

All 1,300 annual and periodic reports filed will be reviewed, and 85% of the requests for interpretive and no-action letters will be answered within 90 days of receipt. The staff expects a small increase in the number of requests for interpretations. There will be substantial growth in the number of comments and interventions related to these requests as filings begin to reflect competition within the industry and uncertainties regarding nuclear plant decommissioning and nuclear waste disposal. Two inspections of service companies will be completed, and two rulemaking and special projects will be undertaken.

Inspections: Staffing levels and productivity in the inspection program continue to suffer from rapid staff turnover. With 118 staff years, the staff will examine about 815 ICs having $225 billion of assets, representing 23% of the population and about 19% of industry assets. Inspections of 1,300 IAs managing approximately $243 billion of non-IC assets will be completed, covering approximately 8% of advisers and about 7.5% of non-IC assets.

Increased competition in the IC industry has made marketing increasingly important. Intense pressure to sell fund shares can lead to a variety of abusive sales practices by fund distributors and their network of retail dealers. In response, the IC inspection program will continue to devote resources to close monitoring of marketing activities. This new area of the examination process means that fewer inspections will be completed with a given level of staffing. Each IC inspection will continue to require more time to determine compliance with complex rules pertaining to performance advertising. Further, the 1990 IC inspection program will again place emphasis on the inspection of stand-alone mutual funds that have not been inspected in prior years. These inspections generally uncover many problems and take proportionately longer to complete. The program's emphasis on examination of large money managers will continue in 1990 since a large number of the IA exams conducted in preceding years were of financial planners and small advisers. Inspections of large money managers are more complex and time-consuming.

1991 Program Request

Disclosure: Although the level of review per staff year is expected to decrease slightly due to EDGAR start-up, the efficiency of the staff will increase in future years. The disclosure staff will review approximately the same percent of new IC registration statements, post-effective amendments, and proxy statements as in 1990. The remaining disclosure documents, except for semi-annual reports, will be processed without review. The increase of one staff year in the Office of Applications and Reports Services (OARS) will allow the staff to review all 3,403 IA registrations and 75% of amendments reporting disciplinary action, as well as perform a more in-depth review of amendments for full disclosure. The staff will review the 1,621 registration withdrawal and cancellation notices, and half of the 15,786 annual reports will be processed with limited review. Finally, resources will be available to maintain and update the IA database.

Regulation: The program will analyze 461 exemptive applications, respond to 920 requests for no-action letters, and handle 22,500 oral requests for interpretive advice. While the number of exemptive orders issued over the 1981 level will increase 54%, the backlog of exemptive applications is expected to remain at about 230, due to an increase in the number, length, and complexity of requests for relief resulting from new types of investment products. Lengthy agency processing time may eliminate potential benefits realized by the industry and its investors. Alternatively, timely agency response to requests for relief promote compliance with the law and avoid costly enforcement action and private litigation.

Four additional staff years in 1991 will be assigned to projects concerning the globalization of the securities markets. ICs and IAs are increasingly investing in markets outside the U.S., and foreign IAs are registering with the Commission. These developments create complex issues that require extensive staff consideration, such as the extra-territorial application of U.S. laws and accompanying jurisdictional concerns, reconciliation of contradictory foreign laws, and custody issues to protect the assets of ICs investing abroad.

The regulation staff expects to issue 14 rule proposals and take final action on eight others. Rulemaking benefits the industry and investors by reducing the need for exemptive applications. The Office of Insurance Products will begin design of a new registration form for variable life separate accounts to replace the current form which dates back to the 1940's. Finally, the staff plans to conduct two administrative proceedings on contested exemptive applications.

Public Utility: A 57% increase in staffing over the 1989 level will enable the program to significantly reduce the filing backlog. The program expects a 71% decrease in the complex filing backlog over 1990 levels. The staff expects to process a total 242 filings during 1991. In addition, 400 orders and notices will be issued within 90 days of receipt.

Electric and gas registered holding companies are expected to increase the number of their utility subsidiaries through acquisitions and mergers. In spite of some industry consolidation, the number of filings is expected to grow as a result of continuing difficulties stemming from increased competition, nuclear decommissioning, waste problems, acid rain regulations, and financing issues. All 1,100 annual and periodic reports received will be reviewed, and 90% of the interpretive and no-action letters will be answered within 90 days of receipt. Three administrative hearings will be conducted, and the staff will complete inspections of three service companies. Also, the staff will undertake two rulemaking efforts and special projects.

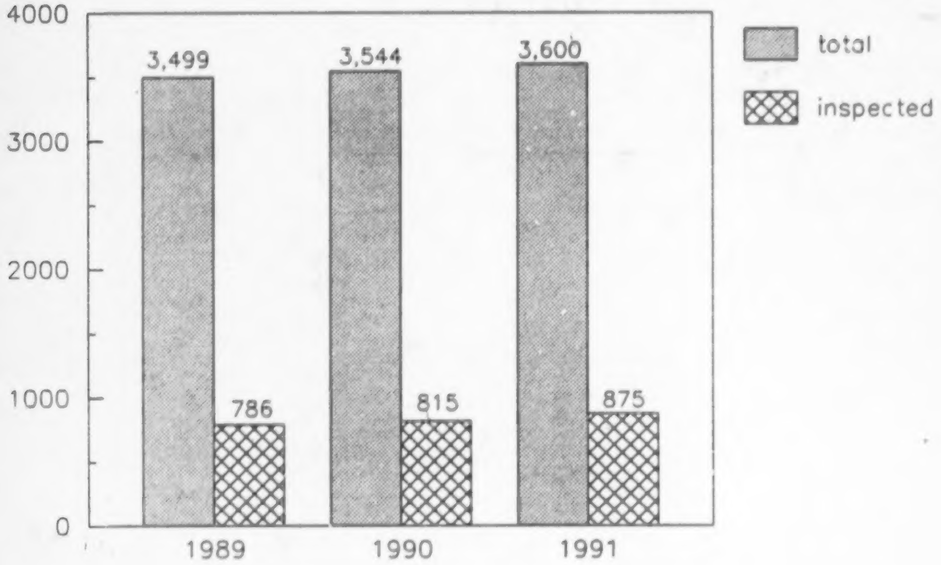
Inspections: The staffing increase requested for 1991 is critical to maintain a viable inspection program. Dramatic growth in the number of registrants and assets managed during the last several years, combined with relatively small increase in examination staff during the 1980's, have resulted in a persistent annual decline in the percentage of registrants and assets inspected. Inspections of advisers now average once every 12 years. The program is at a point where inspections may have lost much of their deterrent effect. ICs on average are being inspected approximately once every 5 years; while this is better than for advisers, it is less frequent than needed to have a prophylactic effect.

The changing environment of the IC industry is contributing to an increased need for more frequent inspections. For example, there are approximately 200 ICs that invest a majority of their assets in securities of foreign issuers. Normally, these assets are held by custodians in other countries, and the ICs have sub-advisers located abroad. The foreign entities providing services to ICs should be inspected at the same time the U.S. based activities of these ICs are examined to make sure assets are being appropriately safeguarded and personnel working for these foreign entities are not using insider information to make personal trades. Conducting inspections of foreign entities is a demanding, time-consuming and expensive task.

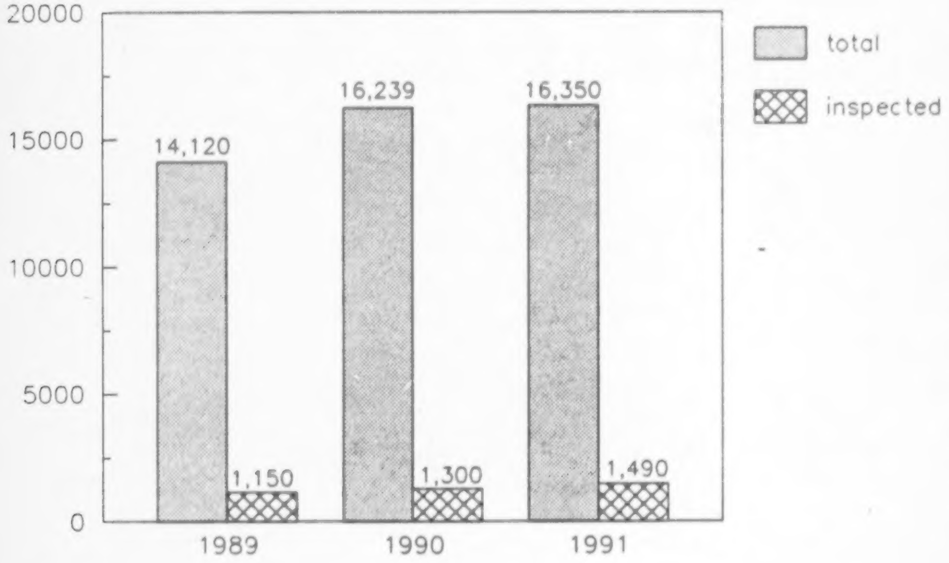
Additional staff in 1991 will enable the program to inspect 875 ICs with assets of $248 billion, representing 24% of all ICs and 20% of total assets. Increased resources will also be used to conduct 1,490 IA inspections covering $281 billion, which represents 6% of the total assets under management and 9% of IAs. Inspection activities will target IAs with higher risk profiles. The increased number of inspections will produce benefits to investors through early detection and correction of violations. Inspection staff will incorporate techniques into examination routines that determine IA compliance with provisions of the Insider Trading and Securities Enforcement Act. Commission records show that routine inspections are the source of most IC and IA enforcement cases. Coordination of IA inspections with state securities personnel will continue. Additional uses for portable computers will be pursued, such as down-loading data from registrants. Enhanced examiner productivity should result as examiners become more proficient with computer applications.

Investment Management Inspection Program

Investment Companies Inspected

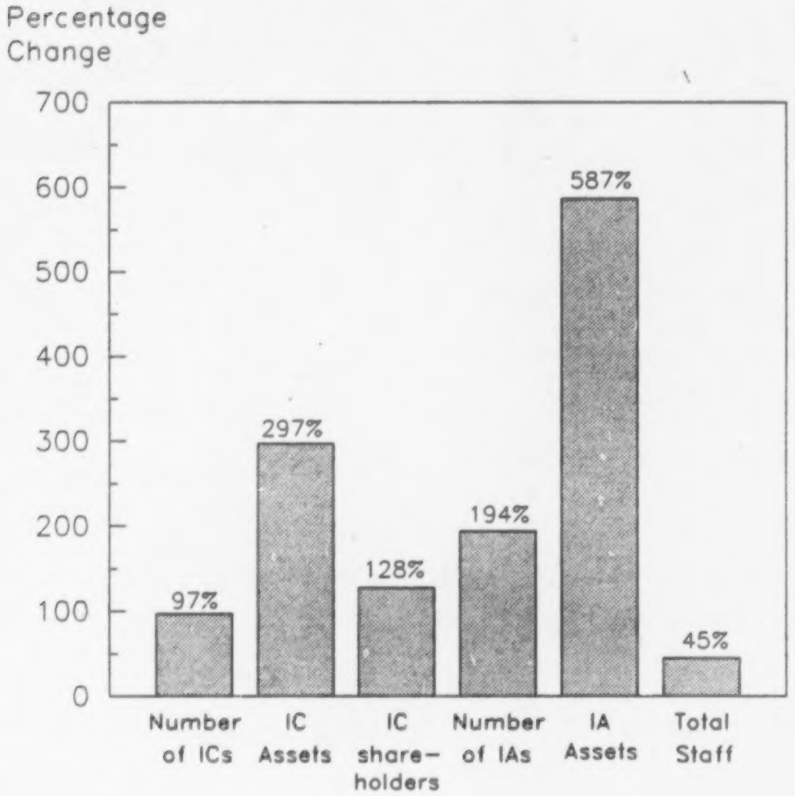


Investment Advisers Inspected



Investment Company & Investment Adviser Industry Growth

1983–1991



Investment Management Regulation

Workload Data

Activity	1989 Actual	1990 Estimate	1991 Estimate
Disclosure			
Investment Companies			
Number	3,499	3,544	3,600
Assets ($ billions)	1,125	1,200	1,250
Shareholders (millions)	55	56	57
Registration Statements			
Received/EDGAR	454	455	456
Paper (non-insurance products)	777	779	781
Paper (insurance products)	62	62	62
Reviewed	717	658	645
Post-effective Amendments			
Received/EDGAR	2,735	3,198	3,739
Paper (non-insurance products)	4,682	5,474	6,401
Paper (insurance products)	660	772	902
Reviewed	1,477	1,503	1,719
Proxy Statements			
Received/EDGAR	148	146	144
Paper (non-insurance products)	768	756	745
Paper (insurance products)	52	51	50
Reviewed	418	391	386
Annual & Periodic Reports			
Received/EDGAR	2,299	3,027	5,000
Paper	4,101	3,413	1,600
Reviewed partially 1/	2,200	2,500	2,600
Staff Years	45	46	47
Investment Advisers			
Number	14,120	16,239	16,350
Assets under management ($ billlions)	3,400	4,400	4,600
Clients and subscribers (milllions)	9	10	11
Applications for Registration			
Received/processed	3,000	2,641	3,403
Returned	957	1,019	1,113
Becoming effective	3,000	2,500	3,300
Amendments			
Received/Processed	10,527	12,765	13,658
Returned	1,182	1,245	1,387
Annual Reports			
Processed	10,216	14,753	15,786

1/ Two N-SAR's are filed annually by most investment companies. The second filing includes, as an attachment, an auditor's report on internal control, which is reviewed. All other data in N-SAR's are not reviewed.

Activity	1989 Actual	1990 Estimate	1991 Estimate
Withdrawals/Cancellations			
Received/processed	1,271	2,409 2/	1,621
Withdrawals returned	337	362	436
Staff Years	10	10	11
Regulation			
Interpretation and no-action letters	900	910	920
Exemptive orders issued	441	450	461
Administrative proceedings conducted	1	1	2
Responses to shareholder letters	110	115	120
Rule proposals issued	12	9	14
Final action taken	6	13	8
Responses to oral inquiries	22,000	22,000	22,500
Staff Years	57	59	64
Public Utility Regulation			
Filings received	188	210	212
Filings processed	184	213	242
Backlog of complex filings 3/	42	34	10
Examination of annual and periodic reports	1,300	1,300	1,100
Administrative hearings	2	2	3
Interpretive inquiries	1,200	1,200	1,200
Interpretive letter requests	98	100	80
Notices and orders	347	370	400
Rulemaking and special projects	2	2	2
Service company inspections	2	2	3
Staff Years	14	18	22
Inspection			
Investment companies			
Inspections completed	786	815	875
Deficiencies identified	2,279	2,850	3,075
Referrals to Enforcement	53	55	60
Investment Advisers			
Inspections completed	1,150	1,300	1,490
Deficiencies identified	6,672	7,150	8,344
Referrals to Enforcement	55	62	71
Recovery for investors - both IC & IA ($ millions)	1.5	2.5	3.0
Staff Years	98	118	140
Total Staff Years	224	251	284

2/ The registrations of approximately 900 IAs will be cancelled after appropriate public notice has been given for failure to keep registrations current by filing periodic amendments.

3/ A backlog of routine filings, which includes filings under review, will continue to exist; the backlog of routine filings was 11 in 1989, and is projected to be 16 in 1990 and 10 in 1991.

Legal Services

Executive Summary

Organizations	1989 Actual	1990 Estimate	1991 Estimate
General Counsel	91	104	110
Administrative Law Judges	6	6	6
Corporate Reorganization	14	14	14
Total Staff Years	111	124	130
Cost: Salaries and Benefits ($000)	$6,179	$7,288	$8,271
Non-Personnel Expenses ($000)	1,894	2,519	2,763
Total Program Cost ($000)	**$8,073**	**$9,807**	**$11,034**

Expanded SEC law enforcement activity, global market issues and an aggressive legislative agenda are increasing the workload of the Legal Services Program. Appeals of decisions by administrative law judges and self regulatory organizations have grown dramatically -- increasing the program's workload. In addition, the Commission's regulatory activities entail more sophisticated and difficult legal issues as the trading markets evolve and become more international. The resulting legal issues facing the Commission have placed heavy demands on this program.

Internationalization/Market Regulation: Legal and policy issues arising from transnational trading, the creation of market linkages, and the development of cooperative agreements with foreign regulatory authorities are placing additional demands on the General Counsel's resources. Additional staff will allow the office to create a unit specializing in litigation, legislative matters, and advisory services to the Commission involving international issues. In addition, questions regarding the need for additional enforcement remedies, banking reform, and market reform are generating Congressional interest and legislation affecting the SEC. The requested staffing level will allow the General Counsel to respond promptly and completely to these requests from Congress.

Increased Litigation/Rule 2(e) Actions: The high levels of Commission enforcement activity, particularly in the areas of insider trading and broker-dealer regulation, have greatly increased the program's litigation caseload. As the dollar amount of penalties has grown and the likelihood of criminal action increases, defendants are choosing to litigate rather than settle Commission enforcement actions and to appeal unfavorable decisions. The requested level of 130 staff years will allow the General Counsel to participate in 238 new cases, and close 212. The number of Rule 2(e) proceedings instituted against lawyers and accountants has also grown. These cases are exceedingly complex. Increased staffing will allow the agency to meet the resource requirements of these complex cases in a timely manner.

Commission Opinions: Increased appeals from decisions of administrative law judges and self-regulatory organizations have resulted in a substantial backlog in Commission adjudication. The staff level requested will allow the program to reduce the backlog. The General Counsel will complete 45 opinions with the added resources, an increase of 96% over 1989.

Legal Services

Mission

The Legal Services Program has three components -- General Counsel, Corporate Reorganization (conducted in conjunction with the regional offices) and the Office of Administrative Law Judges. The program furnishes legal and adjudicatory services to the Commission and its staff on a wide variety of matters.

General Counsel: The Office of the General Counsel is active in four major areas - litigation, legislation, advisory services and adjudication of administrative cases.

The office is responsible for litigation activities in four primary areas: litigation of all SEC appellate cases; prosecution of administrative proceedings against professionals under Commission Rule 2(e); defense of the Commission in civil actions; and representation of the Commission as amicus curiae in private litigation.

The office is also responsible for the substance of the Commission's legislative program. The office develops position papers, performs legal research, produces testimony, and drafts bills, while working closely with Congressional staff.

The office provides advisory services to the Commission and the staff on regulatory and enforcement matters under the securities acts. This work ensures consistent legal and policy positions. The General Counsel also administers Commission compliance with non-SEC statutes that affect the agency's work, including the Freedom of Information Act (FOIA), Privacy Act, Right to Financial Privacy Act, Government in the Sunshine Act, and Ethics in Government Act -- as well as administering and overseeing the Commission's ethical conduct program. Finally, the office is responsible for a wide variety of special legal and policy projects initiated at the request of the Chairman or the Commissioners.

The office is also responsible for the Commission's adjudication of administrative cases. The office prepares draft opinions and orders for the Commission as a result of appeals from decisions of administrative law judges and self-regulatory organizations.

Corporate Reorganization: The Office of the General Counsel manages the Commission's bankruptcy program. Regional office staff, under the direction of the General Counsel, participate in selected cases to protect the interests of public investors holding securities of corporations that have sought protection under the Bankruptcy Code. The Commission's bankruptcy participation focuses on significant legal issues likely to affect public investor interests generally. The Commission also becomes involved in reorganization issues relating to the adequacy of disclosure in reorganization plans, the issuance and resale of securities in connection with reorganizations, and the relation of the reorganization to ongoing enforcement investigations or proceedings related to the debtor. In particular, the staff reviews disclosure statements used to obtain investor approval of the reorganization plan. These plans often include the issuance of new securities to creditors and shareholders in exchange for their claims or interests against the debtor.

Administrative Law Judges: The Office of Administrative Law Judges (ALJ) conducts hearings in administrative proceedings instituted by the Commission. Decisions are rendered on ultimate issues as well as on interlocutory matters.

Program Environment

General Counsel: The activity levels of other SEC programs, especially enforcement and rule making activity, largely control the staff's litigation workload. It is anticipated that high levels of enforcement activity, particularly in the insider trading, financial institution fraud, financial disclosure fraud, penny stock fraud, and broker-dealer regulation areas, will continue-to generate a heavy caseload for the Legal Services Program. With the increased focus by the Division of Enforcement on financial fraud, the Commission has greatly increased the number of Rule 2(e) proceedings against accountants. These proceedings are litigated by the Office of the General Counsel and involve substantial effort due to their complexity, need for intensive fact development, and the presentation of expert testimony. The adjudication workload has also significantly increased due to the larger number of appeals from decisions of administrative law judges and disciplinary actions from self-regulatory organizations, such as the stock exchanges and the National Association of Securities Dealers (NASD). The volume of these proceedings is expected to climb even higher. Similarly, as the Commission has responded to developments in the securities markets with new regulatory approaches, litigation challenging Commission regulatory action has become more frequent and more complex. Examples of this type of litigation include actions against the SEC seeking to overturn its approval of index participations and nonexchange securities trading facilities.

The staff will also continue to process a large number of FOIA appeals, subpoenas, confidential treatment request appeals, and ethics inquiries. These appeals and inquiries require a significant allocation of staff resources to handle properly. A current growth area involves questions of administrative law arising from the Commission's ADP contracting, particularly the Electronic Data Gathering, Analysis and Retrieval (EDGAR) system. Further, new government-wide ethics provisions will require a total revision of the Commission's Conduct Regulation and changes in its ethics program. Recent initiatives by the Office of Government Ethics will require implementation of a new ethics training program -- resulting in a substantial increase in the amount of statistical and program information to be collected and reported.

Legislative proposals that will increase the staff's work include bills relating to Commission enforcement remedies, internationalization of the securities markets, tender offers and leveraged buy-outs, and proposals to expand the securities activities of banks. Other Congressional actions that will affect the securities laws include proposals for direct federal regulation of the accounting profession and amendments to the Racketeer Influenced and Corrupt Organizations Act (RICO). In addition, continuing Congressional consideration of the dramatic market events of October 1987 and October 1989 and of related legislation has produced significant workload increases. Testimony and legislative comments are prepared in response to Congressional requests for information concerning the impact on the Commission of possible changes in the law governing its activity. The General Counsel is increasingly called upon to provide technical advice to Congressional committees.

The advisory services provided to the Commission bring a broader perspective and greater consistency to enforcement and regulatory decisions. Those services also enhance the Commission's compliance with applicable law and provide analyses of the Commission's authority to act in various areas. The significant growth in the number of items coming before the Commission has increased the calendar review function of the counseling staff. In addition, staff support for Commission rulemaking has increased. Finally, the Chairman's Office frequently calls on the counseling staff for a variety of research and writing projects.

Corporate Reorganization: During 1989 the Commission authorized a review of its Section 1109(a) general participatory role in Chapter 11 cases and of the adequacy of public investor protection under Chapter 11 of the Bankruptcy Code. As part of this review, the Commission is actively participating in six major reorganization cases. Activity in this program during 1990 and 1991 will be dependent upon the findings of the on-going review.

In other reorganization proceedings, the Commission is not active on a daily basis and generally limits its involvement to important legal questions that affect public investors. The Commission also acts in reorganization cases to protect other program areas by ensuring adequate disclosure of reorganization plans and compliance with the registration provisions of the Securities Act of 1933 by persons issuing securities under a reorganization plan. Bankruptcy filings by public companies increased to 125 in 1989, compared with 108 in 1988. Continued high levels of filings are anticipated in 1990 and 1991. Due to these additions, the caseload of pending reorganization cases in which the Commission filed an appearance increased about 23% in 1989 and is expected to increase by an additional 11% in 1990.

Administrative Law Judges: Since the volume of administrative proceedings varies with the level of enforcement activity, the trend toward greater enforcement activity should cause the number of administrative proceedings to increase through 1991 and beyond.

1989 Program Evaluation

General Counsel: The litigation activities of the Office of the General Counsel produced notable results in 1989. The Commission filed briefs and/or presented oral arguments on numerous issues of critical interest to investors and the market. Litigation cases opened by the General Counsel's Office exceeded expectations for 1989, increasing by approximately 33% over the 1988 level. Some issues briefed, argued or decided this year involved:

- the coverage of the anti-fraud provisions of the securities laws, including the scope of the prohibition against insider trading, and the Commission's authority to adopt a rule regulating trading by persons with nonpublic information concerning tender offers;
- the definition of a security (the cornerstone of the Commission's jurisdiction) with respect to a variety of investment vehicles, including notes, oil and gas interests, interests in stock indexes, and mortgage-backed, pass-through certificates;
- the reach of the federal securities laws outside the United States, including the standards for the assertion of jurisdiction under the federal securities laws for conduct occurring outside the United States, the ability of federal district courts to freeze assets of an alleged securities laws violator that are held in an overseas bank branch, the proper method for effecting service on securities law defendants residing outside the United States, and the power of the district courts to issue injunctions in securities law cases that affect persons or property outside the United States;
- the circumstances in which investors victimized by insider trading are the beneficiaries of a constructive trust on profits disgorged by the wrongdoer in a Commission action;
- the availability of a private right of action under the anti-pyramiding provision of the Investment Company Act and the standards for applying that provision;
- the availability of disgorgement as a remedy against persons who acquire stock while failing to make disclosure required by the Williams Act takeover provisions;

- the proper statute of limitations for private actions brought under the anti-fraud provisions of Rule 10b-5, which determines the ability of investors to seek relief under the federal securities laws; and

- whether the Commission had authority to promulgate a rule requiring that listing standards for self-regulatory organizations prohibit listing of a company's stock if the company nullifies or reduces the voting rights of its existing common stockholders.

The courts decided several important cases in which the Commission filed briefs. For example, in Adena Exploration, Inc. v. Sylvan, the Fifth Circuit Court of Appeals agreed with the Commission that fractional undivided interests in oil and gas leases fall squarely within the definition of a "security" in the Securities Act, and that, where the interest sold fits the definition, courts should not look to the economic context of the transaction. In Consolidated Goldfields, PLC v. Anglo-American Corp. of South Africa, Ltd., the Second Circuit agreed with the Commission that jurisdiction under the anti-fraud provisions of the federal securities laws may be asserted where conduct in foreign countries has "direct and foreseeable" effects in the United States. In SEC v. First City Financial Corp., the Court of Appeals for the District of Columbia Circuit affirmed an order directing First City to disgorge over $2.7 million in profits it realized on stock it purchased during a period when it failed to disclose that it held over 5% of the outstanding shares. In this case of first impression, the court ruled that disgorgement is available as a remedy for violations of section 13(d) of the Securities Exchange Act of 1934. In Wilson v. Ruffa & Hanover, P.C., the court agreed with the Commission that a law firm that merely prepares offering materials and, at the issuer's request, sends them to prospective investors, is not a "seller" of the securities under certain express liability provisions of the Securities Act. In United States v. Chestman, a criminal case in which the Commission drafted the relevant part of the government's brief, the court agreed that the Commission had authority to adopt Rule 14e-3, precluding trading by persons with material, nonpublic information concerning tender offers. The Commission also was successful in persuading the Supreme Court to grant review in Reves v. Arthur Young & Co., a case raising the question of whether demand notes are securities.

The staff of the General Counsel's Office also represented the SEC at the trial and appellate levels in numerous suits brought under various federal statutes, such as the Administrative Procedure Act and the FOIA. In addition, the staff successfully defended several actions seeking to thwart SEC law enforcement activities and presented a variety of amicus curiae positions, often at the request of the courts. The staff also completed drafts of full opinions in 23 cases. Finally, the staff handled an increased volume of proceedings under Rule 2(e) against accountants who practice before the Commission.

The Office of the General Counsel also drafted numerous legislative proposals and developed Commission positions on a large number of bills important to the SEC. The office drafted the proposed Securities Law Enforcement Remedies Act, which would provide the Commission with additional enforcement remedies, and the proposed International Securities Enforcement Cooperation Act, which would facilitate cooperation among international securities regulatory authorities. The office developed the Commission's position and provided technical assistance to Congress on the Insider Trading and Securities Fraud Enforcement Act of 1988; legislation regarding tender offers and leveraged buyouts; proposals to modify or repeal the Glass-Steagall Act; amendments to RICO; and legislative proposals involving telemarketing fraud, private right of action for margin violations, foreign interest registration, and other issues. Office staff also prepared testimony for oversight hearings on a wide variety of matters, including globalization issues, the Commission's enforcement remedies proposal, RICO, and the Commission's authorization request.

The advisory services staff reviewed all matters submitted to the Commission, including enforcement and rulemaking proposals, to ensure consistency with applicable court decisions and Commission legal and policy determinations. Other significant projects included: conducting analyses of Commission rulemaking authority; analyzing Commission authority over accountants and the accounting profession; providing opinions on issues such as the Commission's authority to approve trading in index participations, and its authority to regulate proprietary trading systems; considering the ramifications of certain activities by exempt public utility holding companies; and responding to interpretive questions under the Insider Trading and Securities Fraud Enforcement Act of 1988.

Corporate Reorganization: The General Counsel directed regional staff participation in 57 new cases involving debtors with assets of about $8.7 billion and about 200,000 public investors of record. Counting these new cases, the Commission was a party in a total of 166 Chapter 11 cases during 1989. In these cases, the stated assets totaled about $35.2 billion and involved about 750,000 public investors. The Commission moved for, or supported, the appointment of committees to represent public investors in two cases. The staff commented on inadequate disclosure statements relating to reorganization plans in 95 cases and prevented the unlawful issuance of securities in two of these. In addition, the staff participated in judicial consideration of numerous issues of law that have a potentially significant impact upon the rights of public investors generally.

Administrative Law Judges: During 1989, 156 proceedings were instituted before the Commission's administrative law judges. The ALJ staff disposed of 160 proceedings, expeditiously scheduling hearings and preparing initial decisions. In one of these proceedings, the nation's largest penny stock dealer, which has 1,300 brokers in 50 offices in 21 states, was charged, together with eleven officers and managers of the firm, with purchasing and selling the securities of two corporations by means of deceptive telephone sales practices and undisclosed excessive markups of up to 200%.

1990 Appropriation

General Counsel: The staff expects the level of litigation in 1990 to exceed the record level of 197 cases achieved in 1989. As a result of enforcement recommendations, the number of disciplinary proceedings against attorneys and accountants is increasing. The number of cases raising questions of international jurisdiction and discovery will increase as well. Two other areas where the volume of litigation is likely to increase are suits against the Commission and suits to enjoin investigations. As the level of enforcement and regulatory activity increases, such litigation becomes more frequent. Additionally, the insider trading and broker-dealer enforcement programs will continue to generate significant appellate litigation for the Commission. In general, the Commission's emphasis on the enforcement program will result in a 14% increase over 1989 in litigation cases opened by the Office of the General Counsel. The General Counsel's Office has had to reallocate staff in order to handle the increase in appeals being taken from NASD disciplinary actions, and expects to complete 83% more cases requiring full opinions in 1990 than in 1989.

The office will devote considerable resources to legislative proposals regarding tender offer reform, leveraged buyouts, regulation of the accounting profession, additional enforcement remedies, efforts to increase effective disclosure relating to municipal securities, and proposals to alter the regulation of the financial services industry. Moreover, the Commission must monitor and react to rapidly evolving business and securities market practices. For example, the October 1987 market break has resulted in proposed structural changes in securities regulation. If implemented, these will require substantial staff efforts. Finally, the Congress is focusing significant attention on the internationalization of securities markets, including proposals designed to facilitate international securities enforcement cooperation. These activities are expected to generate extensive Congressional testimony and correspondence.

The advisory services staff will continue to provide active assistance to the Commission on such issues as the business, regulatory, and litigation implications of functional regulation of financial services. The office will also assist the Commission in its reviews of the Investment Company Act, Investment Advisers Act, Public Utility Holding Company Act, Trust Indenture Act, and the Commission's Rules of Practice. The staff will consider novel questions generated by the Commission's proposals to expand its authority to proceed administratively against violators of securities laws. The advisory staff also expects to spend considerable time analyzing issues raised by the increasing number of enforcement actions against accountants and attorneys, and questions relating to changes in the regulation of the accounting profession. Finally, as the securities markets become more complex, novel questions arise concerning the scope of the Commission's regulatory authority over problems unforeseen at the time of the enactment of the federal securities laws. The advisory services staff will assist the Commission in addressing these questions.

Corporate Reorganization: Corporate reorganization will continue to focus on bankruptcy issues likely to have a significant effect on public investor interests or other key issues, such as shareholder rights, the adequacy of disclosure to shareholders, the issuance of securities, and law enforcement matters. Activity levels in this program will be dependent on the outcome of the on-going Commission review. At the estimated 1990 funding level, the staff anticipates a 14% increase in its caseload of public company bankruptcy filings in which a Commission appearance is made. The 1990 budget will allow the staff to appear in 55 new cases, monitor another 70 cases, and close 100 cases. Also, the staff will review about 180 disclosure statements filed in the major cases in which the SEC is involved and comment on approximately 90 of these disclosure statements.

Administrative Law Judges: Approximately 175 new administrative proceedings are anticipated in 1990, an increase of more than 12% over the 1989 level. The staff will dispose of 160 proceedings. The ALJ staff will maintain their objective of scheduling hearings within 30 days from the order for proceedings, and rendering initial decisions within 30 days after service of the record upon the presiding judge. The prompt scheduling and completion of hearings, along with the timely issuance of initial decisions, reduces costs for the parties involved in a proceeding, and significantly enhances the deterrent effect of the enforcement program.

1991 Program Request

General Counsel: Increased funding will enable the office to fulfill its responsibilities to the Commission fully. The staff will be able to handle the increasing appellate and defense litigation arising from expanded enforcement activity, particularly in the insider trading and penny stock fraud areas. In addition, this funding will allow for prompt litigation of Rule 2(e) disciplinary proceedings against professionals, including accountants and lawyers, who practice before the Commission. Rule 2(e) proceedings are complex and fact-intensive. These cases place a great deal of strain on the office's resources because they typically involve multiple respondents and issues, require expert witnesses, and involve the creation of computerized data bases for a large number of documents. The office will be able to reduce the backlog of appeals from decisions of administrative law judges and self-regulatory organizations, by increasing the number of cases completed by about 7% over 1990.

The additional staff in 1991 will permit the General Counsel's Office to intensify its efforts in support of the Commission's leadership in internationalization and global cooperation in securities regulation. Increased staffing will allow the office to create a special unit responsible for litigation, legislative matters, and advisory services to the Commission on matters involving international issues. Recent appellate litigation, for example, has involved issues relating to international service of process in a Commission injunctive action, the jurisdiction of a federal district court over assets deposited in a foreign bank which has a branch in the United States, and the applicability of the anti-fraud provisions of the federal securities laws to a tender offer that is conducted primarily in a foreign country. In all, approximately five staff years will be devoted to activities with global implications.

Increased funding will permit the advisory services staff to address legal issues presented by the Chairman, the Commission, and other offices and divisions. In addition, advisory services staff will review the increased number of recommendations in enforcement actions to ensure consistency with Commission rules and policy. In the legislative area, the office will monitor and analyze bills affecting the Commission's programs and operations. The staff will also respond to Congressional requests for assistance on legislative drafting, constituent inquiries, special studies, and Commission testimony. Important policy issues will be addressed, including Congressional initiatives related to structural and technical securities law matters resulting from the October 1987 market break, Glass-Steagall Act reform, internationalization of the securities markets, and tender offer legislation.

Corporate Reorganization: Continuing with its current mandate and staffing level, this program will match its 1990 workload levels by appearing in about 55 new cases and monitoring 70 others. Also, the staff will review about 180 disclosure statements filed in major cases in which the SEC is involved. The staff will comment upon approximately 90 of these statements. The staff's review of disclosure statements ensures that investors are provided material information, and serves to prevent fraud and misrepresentation in the offer and sale of bankruptcy securities. The number of cases in which the SEC makes an appearance will climb by 8% over the 1990 level. Similarly, the number of cases being monitored will increase by 4%.

Administrative Law Judges: The administrative law judges will maintain their objectives of scheduling hearings within 30 days from the order for proceedings and rendering initial decisions within 30 days after service of the record upon the presiding judge. The prompt scheduling and completion of hearings and the timely issuance of initial opinions reduces costs for the parties involved in a proceeding and significantly enhances the deterrent effect of the enforcement program.

Legal Services

Workload Data

Activity	1989 Actual	1990 Estimate	1991 Estimate
General Counsel			
Litigation Case Inventory			
Pending beginning of year	153	167	190
Opened	197	225	238
Closed	(182)	(202)	(212)
Pending close of year	167	190	216
Opinions Case Inventory			
Pending beginning of year 1/	37	51	49
Received	37	40	42
Completed	(23)	(42)	(45)
Pending end of year	51	49	46
Legislation			
Testimony	17	20	21
Comments to Congress & Others	33	37	39
Drafting & Technical Assistance	26	30	32
Legislative Analysis	16	18	19
Other	28	32	34
Advisory Services			
SEC Statutes			
Calendar Memoranda 2/	4	5	5
Assistance to Others	87	99	105
Office Projects	116	132	140
Interagency Projects	13	15	16
Non-SEC Statutes			
FOIA - Internal Appeals	110	115	115
FOIA Matters	31	34	36
Conduct Regulation Matters	93	100	105
Personnel Legal	18	21	23
Procurement Matters	25	30	30
Other 3/	143	150	155
Staff Years	91	104	110

1/ Increase over FY 1988 due in part because figure includes cases ready for disposition but not yet certified.

2/ Does not include comments on matters calendared before the Commission that are part of the office's weekly synopsis, or comments in memoranda submitted by other divisions as part of the advance review procedure.

3/ Includes matters involving internal investigations, EEO, Equal Access to Justice Act, Personnel, Federal Advisory Committee Act, Federal Records Act, Paperwork Reduction Act, and other areas not easily classified separately.

Activity	1989 Actual	1990 Estimate	1991 Estimate
Corporate Reorganization 4/			
Petitions involving public investor interest	125	125	125
Chapter 11 cases: appearances			
Pending beginning of year	109	134	149
Filed	57	55	55
Closed	(32)	(40)	(40)
Pending end of year	134	149	164
Chapter 11 cases: monitored			
Pending beginning of year	167	189	199
Filed	68	70	70
Closed	(47)	(60)	(60)
Pending end of year	189	199	209
Disclosure statements reviewed (both appearances & monitored cases)	179	180	180
Disclosure statements commented on (both appearances & monitored cases)	95	90	90
Staff Years	14	14	14
Administrative Law Judges			
Proceedings Inventory			
Pending beginning of year	25	21	36
Instituted	156	175	180
Disposed	(160)	(160)	(160)
Pending end of year	21	36	56
Staff Years	6	6	6
Total Staff Years	111	124	130

4/ Activity in 1990 and 1991 will depend on the result of the Commission review of this program.

Economic and Statistical Research

Executive Summary

Organizations		1989 Actual	1990 Estimate	1991 Estimate
Economic Analysis		30	23	25
Total Staff Years		30	23	25
Cost:	Salaries and Benefits ($000)	$1,776	$1,422	$1,649
	Non-Personnel Expenses ($000)	457	422	480
Total Program Cost ($000)		**$2,233**	**$1,844**	**$2,129**

The Economic and Statistical Research Program provides the Commission and the operating divisions with an analytical perspective and the technical support required to understand and evaluate the economic aspects of SEC regulation and its impacts on the rapidly changing global marketplace. In 1989, the Office of Economic Analysis (OEA) underwent substantial reorganization which significantly reduced total staff years. Nevertheless, the increased efficiency and greater focus deriving from the reorganization will, by 1990, enable OEA to respond to new demands for economic analysis without substantial increases in staff. OEA will undertake significant economic initiatives in support of the agency's priorities for 1991.

Internationalization: The staff will assess foreign market restructuring efforts and advise the Commission of impacts on the domestic securities market and the Commission's regulatory program. OEA will evaluate the European Economic Community's move toward a unified capital market by 1992, analyze changes in the Japanese and other capital markets around the world, and closely monitor developments in the international bond and equity markets. In addition, OEA expects to provide technical support to the newly created Office of International Affairs.

Corporate Control and Governance: OEA will continue to evaluate the economic impacts of significant developments in the area of corporate control and governance. In particular, the staff will study the impact of leveraged buyouts and corporate recapitalization. The staff will also provide analysis of legislative proposals concerning leveraged buyouts.

Market Developments: Other developments increasing the demands on the program include: the continued policy interest in stock price volatility, the effectiveness of market mechanisms, legislative proposals related to the 1987 market crash, the use of new technology in the securities industry, the continued development of hybrid products and derivative instruments, the increasingly complex securities transactions and related financing arrangements, the growing penny stock market, and the increased use of economic analysis in accounting. Finally, OEA will continue to provide guidance to the Commission on the economic aspects of the Commission's regulatory program.

At the same time, the program is providing technical assistance to the Division of Enforcement. The OEA staff has applied financial economics to assess materiality and recommend size of disgorgement in enforcement cases involving insider trading and disclosure violations.

Economic and Statistical Research

Mission

The goal of the Economic and Statistical Research Program is to provide the SEC with the analytical and technical support needed to evaluate the economic effects of Commission regulation. This program is carried out by the Office of Economic Analysis (OEA) through a two-step process.

Liaison, Planning and Review: Staff meet regularly with the operating divisions to determine which regulatory issues, programs, or policies are suitable for economic analysis and to plan for the collection of needed data. The staff initiate and maintain contacts with key officials and scholars in government, industry and academia, in order to gather information, plan, coordinate, and conduct studies, as well as disseminate information regarding Commission policies. OEA reviews all agency rule proposals to assess potential effects on small entities, as required by the Regulatory Flexibility Act (RFA) and Section 502 of the Small Business Investment Incentive Act. The staff also analyzes rule proposals for their impact on competition within the securities industry and among competing securities markets, as required by the 1975 amendments to the Securities Exchange Act of 1934. Additionally, the staff attempts to identify the most cost-effective means of achieving new regulatory initiatives. Finally, OEA continuously monitors conditions in the domestic and international financial markets to keep the Commission apprised of current developments.

Economic Advice, Reports and Technical Assistance: The OEA provides the Commission with objective economic analyses of proposed rule changes, current or proposed policies, and capital market developments. Advice on rulemaking is primarily intended to ensure that a rule's benefits exceed its costs and to assess the economic impact of Commission rules on small business entities. When the staff is uncertain of the benefits or potential adverse impacts of a proposed rule, it may recommend to the Commission that a rule not be adopted, that a rule be delayed for further study, or that a modified rule be approved. The advice is designed to address such issues as what economic benefits a proposed rule may produce, and what costs may accompany those benefits. Advice on capital market questions enables the SEC to assess more clearly how its role may influence the nation's financial markets. The staff provides technical assistance on enforcement cases by analyzing events such as failure to file a 13-D and insider trading, using standard financial theory and event analysis. In such instances the staff advises the Division of Enforcement concerning whether there is materiality in the case, and often recommending the amount of disgorgement which should be sought. Upon request, the staff provides professional advice and technical support to operating divisions. Furthermore, OEA makes available data on capital markets and the securities industry. These data are used in the Commission's Annual Report to Congress and the Economic Report of the President.

Program Environment

Several issues related to stock price volatility, the effectiveness of present market mechanisms (e.g., circuit breakers), and legislative proposals related to the 1987 stock market crash remain important subjects for analysis by the Commission's economics program. Developments in the area of corporate control, especially the growth in leveraged buyouts and junk bond issues, continue to require analysis by the Commission's economics program. Regulatory reform initiatives related to the Glass-Steagall Act, as well as the application of new technology within the industry, have contributed to an increased demand for economic analysis of issues before the Commission. In addition, there has been a greater need to apply economic and financial theory in enforcement cases. The controversy surrounding the growth of the penny stock market has required increased attention by the Commission's economics program. Interest in the Commission's role in bankruptcy proceedings has prompted a study on the effects of the Commission's bankruptcy program. Finally, in the investment company area, the proliferation of funds and fund types, coupled with aggressive marketing techniques by fund providers, has resulted in complex disclosure issues which benefit from an economic perspective.

The movement toward a unified European capital market by 1992 will present the Commission with unique regulatory issues. Issues such as harmonization of U.S. broker-dealer capital adequacy standards with those of banks engaged in world-wide securities activities will be analyzed by OEA staff. Further, the events surrounding the October 1987 market break clearly displayed the need to monitor foreign and domestic securities markets and for the Commission to keep abreast of world-wide economic, regulatory and institutional changes which could have an effect on the operation and competitiveness of the U.S. securities markets.

1989 Program Evaluation

In 1989 OEA accomplished a substantial realignment of its staff and organizational structure. The results are threefold: (1) a 37% reduction in number of staff; (2) streamlining the organizational structure; and (3) a significant increase in the average level of economics and finance training of staff members. An increase in the quality of analytical support provided to the operating divisions will be realized in 1990.

During 1989, OEA reviewed 96 rules, encompassing the full range of the Commission's regulatory program. The staff performed 90 Regulatory Flexibility Act analyses and provided advice, technical assistance, and empirical analyses of 360 issues of concern to the Commission and its operating divisions. Eight monitoring programs were developed or maintained to study the implementation of major rules, new trading facilities, and developments in the domestic and international securities markets. The staff created or maintained 50 computerized databases for analysis and prepared 450 written responses to inquiries for technical data, including 25 memoranda to the Division of Enforcement.

A monthly report to the Commission monitored developments in domestic and international financial markets. The staff continued to analyze major developments affecting financial markets, including the effect of changes in the macroeconomic environment on domestic and international securities markets. OEA completed a comprehensive report that assessed the economic, institutional and regulatory developments impacting the global securities markets in the 1980s and beyond.

In the corporate control area, the staff delivered two reports to Congress on leveraged buyouts and corporate restructuring, and published a study of the relationship between the quality of a firm's acquisitions and the likelihood that it will itself be the target of a future takeover attempt. The OEA also released a study on the relationship between pension fund terminations and corporate takeovers.

In the securities market area, OEA prepared two analyses of the role played by specialists during the 1987 market break: (1) the liquidity provided by specialists and upstairs firms during the break; and (2) the factors which depleted specialist buying power during the break. The staff also reported on the financial condition and performance of specialists during the 1975-1987 period as background information for the Commission's consideration of a proposal to bring all exchange specialists under the net capital rule. The staff analyzed the performance of specialists that were subject to the net capital rule during October 1987 as compared to exempt specialists. The OEA also prepared an analysis of the effects on broker-dealers of a proposal to raise the minimum net capital requirements of firms that deal directly with the investing public.

In the area of securities trading, the staff prepared a study of a possible connection between index options and the volatility of stocks in the S&P 500 index; another study analyzed trading volume on the New York Stock Exchange on a daily and hourly basis throughout the twentieth century. The staff prepared two studies dealing with investment management: (1) an analysis of the aftermarket price performance of initial public offerings of closed-end funds; and (2) an analysis of the impact of Rule 12b-1 fees on mutual fund expenses and growth in net asset value and total assets.

In addition to preparing comprehensive economic studies, the staff provided technical advice and assistance to the operating divisions on a wide variety of issues. For example, the staff used applied financial economics to assess materiality of questionable disclosures and illegal actions as well as the size of disgorgement in enforcement cases involving insider trading violations. In the accounting area, the staff provided assistance in determining the fair value of non-traded warrants, evaluation of mergers where assets were pooled, and developing appropriate accounting principles for reporting earnings per share in unbundled stock units. The staff assisted in the establishment of rules for publishing "yield" in unit investment trusts and provided input on proposed proxy disclosure for closed-end funds. Technical analysis was provided in an enforcement case involving "suitability" of a trading strategy recommended to a customer by a broker-dealer. The OEA also advised the Commission on proposals to improve the capital adequacy of broker-dealers. The staff provided economic assistance to the Division of Investment Management in developing disclosure guidelines for quoted rates of returns in unit investment trusts. Finally, the staff prepared a report for the Commission on the impact of capital held by specialists on the quality of exchange markets.

1990 Appropriation

The Commission will begin to realize the benefits of the OEA realignment during 1990 through higher quality analytical support provided to the operating divisions. The staff will continue to monitor the extent and nature of international trading in securities, U.S. and foreign portfolio investment patterns, the growth of the international bond and equity markets, and restructuring in overseas markets. The staff will also analyze the emergence of various funds that facilitate international capital flows. Finally, the economic, institutional, and regulatory forces that are shaping the process of internationalization will be studied for potential impact on Commission regulation.

The staff will assemble a database in order to analyze the economic consequences of increasing institutional ownership of American business. This database will allow OEA to address the issue of whether institutional ownership causes managers to become short-term oriented. The staff will continue to examine the economic consequences of corporate restructuring activities. A study of going-private transactions has been initiated which will include examination of:

- characteristics of participating firms;
- structure of financing;
- effect of the transactions on bond prices, employment, corporate cash flows, research and development, capital investments; and
- possible management conflicts arising from such transactions.

The staff will also assess the effect of the SEC's participation in bankruptcy proceedings and its impact on the distribution of claims among private creditors, public creditors, and public stockholders.

In the securities market area, OEA will study factors that may affect price volatility, such as margin requirements and program trading. Specifically, the office will study the margin requirements for stocks and stock index futures and their impact on trading volume as well as examine volatility in the stock market during the past sixty years. Staff will also study the impact of institutional investors on the liquidity of the stock market and analyze various issues pertinent to the allocation of order flow and securities commissions in return for research and other investment services. The OEA will prepare status reports on Rule 10b-21, pertaining to short-selling restrictions during securities offerings, and Rule 19c-3, which allows exchange members to make off-board markets in newly listed stocks. In addition, OEA will monitor the effect of Rule 19c-5, which allows multiple trading of options, on bid-ask spreads.

Finally, the staff plans to further analyze the performance of closed-end investment companies with particular regard to possible explanations of the sources of discounts from net asset value.

1991 Program Request

The staff will continue to provide the Commission with a comprehensive program of economic and policy analyses of issues related to corporate restructuring, stock price volatility, mutual fund performance, and markets for restricted securities. OEA has prepared a study of leveraged buyouts in response to a request by the Senate Banking Committee, and the staff anticipates further requests from committees in Congress to evaluate other issues related to leveraged buyouts. The staff will also provide the Commission with analysis of the impacts of any legislative proposals concerning leveraged buyouts.

The economics staff will provide technical support to the newly created Office of International Affairs to assist the Commission in its efforts to deal with the international dimensions of securities regulation and enforcement matters. Securities markets outside the United States will continue to experience significant structural changes in the 1990's as they become increasingly integrated into the global capital market. Also, many countries are establishing securities markets as they restructure their economies in response to the need to expand their private sectors. OEA will develop capital markets briefing reports and policy papers that will assess the economic, institutional and regulatory developments outside the U.S. that will impact the competitiveness of the U.S. securities market and the Commission's regulatory program.

In the course of preparing economic studies, the staff expects to create and maintain 35 databases and complete 220 data analyses.

Economic and Statistical Research

Workload Data

Activity	1989 Actual	1990 Estimate	1991 Estimate
Liaison, Planning and Review			
Rule reviews	96	96	100
Economic advice and technical assistance	360	350	380
RFA analyses/certifications	90	90	90
Monitoring programs	8	7	8
Staff Years	10	9	10
Data Collection and Analysis			
Databases (primary and subsidiary)	50	30	35
Data compilations/analyses	320	200	220
Staff Years	9	4	4
Economic Advice, Reports & Technical Assistance			
Commission memoranda, reports & publications	45	40	40
Advisory memoranda and data inquiries			
Written responses	450	400	450
Oral responses	2,000	1,800	1,800
Staff Years	11	10	11
Total Staff Years	30	23	25

Program Direction

Executive Summary

Organizations	1989 Actual	1990 Estimate	1991 Estimate
Executive Staff	31	38	42
Executive Director	15	18	18
Secretary	18	18	18
Public Affairs	8	8	9
Comptroller	25	27	28
Information Systems Management	70	80	83
Personnel	29	30	31
Administrative Services	64	67	69
Inspector General	5	6	6
Total Staff Years	265	292	304
Cost: Salaries and Benefits ($000)	$11,364	$13,212	$15,060
Non-Personnel Expenses ($000)	4,027	5,336	5,796
Total Program Costs ($000)	**$15,391**	**$18,548**	**$20,856**

The SEC operates in a complex, dynamic, and increasingly global environment. The world's financial markets are highly interrelated -- events in overseas markets have far-reaching impacts upon U.S. markets. In the 1990's the Commission will be increasingly challenged by this international dimension and by developments in automation and trading techniques, sophisticated schemes for market manipulation and insider trading, an active takeover environment, and increased disclosure needs.

Policy Initiatives: The SEC must be able to solidify and enhance its leadership role in the globalization of securities markets; additional staff will allow the agency to continue efforts to promote international cooperation and access to foreign markets. An increased focus on legislation affecting the SEC, such as that relating to restructuring the financial services industry, reforming the markets, and strengthening enforcement remedies, has increased the Commission's role in drafting, reviewing, and analyzing legislation. Additionally, intense Congressional interest in the Commission's activities has increased demands upon the staff for the preparation of testimony. Increased funding will allow the agency to maintain the quality of staff analysis and legislative support. The high profile of the SEC also has increased the correspondence and communications functions of the Executive Staff. The 1991 budget will allow the Commission to provide accurate and prompt information on its mission and activities.

Internal Controls: Increased funding will enable the SEC to strengthen its commitment to internal controls and financial integrity. The Executive Director will fully implement internal controls and audit follow-up as mandated by the Inspector General Act Amendments of 1988. The Office of the Inspector General will continue to test internal controls as part of its audits.

Resource Management: Turnover in key positions requires the SEC to develop new recruitment programs to compete with salaries offered by other federal financial regulatory agencies and the private sector. In addition, training will focus on increasing the expertise of SEC staff in foreign securities matters and financial regulation. Enhancement of computer services is also critical to support expanding enforcement and disclosure activities and to improve staff productivity through advanced office automation.

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Program Direction

Mission

The goals of Program Direction are to formulate and communicate policy and to manage agency resources to enable the Commission to fulfill its statutory responsibilities.

Program Direction pursues its goals through three major functions. The first, policy management, is performed by the Executive Staff (Commission members and their staffs and the Office of Legislative Affairs), the Executive Director's Office (including the Office of Equal Employment Opportunity), the Office of the Secretary, and the Office of Public Affairs. The policy management function encompasses policy formulation, information dissemination, and management of agency resources. The second function, administrative support, is performed under the direction of the Executive Director by the Offices of the Comptroller, Information Systems Management, Personnel, and Administrative Services. These offices supply the financial, data processing, human resource, and logistical services necessary to support the agency's mission. The third function, prevention of waste and fraud, is performed by the Office of the Inspector General.

Policy Management: The Executive Staff develops overall SEC policy and advises the Chairman and Commissioners on the wide array of legal, financial, legislative, and economic issues encountered in the administration of the federal securities laws. The staff analyzes and reports on all rule proposals, enforcement actions and other matters submitted by SEC operating divisions and offices; on all legislative initiatives concerning the SEC; and on the actions of other government agencies, self regulatory organizations, and private sector groups, among others, that affect the agency. The Executive Staff also is responsible for drafting testimony, speeches, and other official agency statements.

The Office of Legislative Affairs (OLA) is responsible for Congressional liaison, including coordinating responses to requests from members of Congress and their staffs for documents, other information or technical assistance. OLA staff also coordinate requests from Congressional committees for SEC testimony. Additionally, OLA monitors Congressional hearings and tracks pending legislation of interest to the Commission.

The Office of the Executive Director (ED) promotes the efficiency and effectiveness of SEC programs by enhancing internal management. The office formulates budget and authorization strategy, supervises the allocation and utilization of agency resources, oversees the development and use of the agency's computerized information systems, manages the administrative support offices, coordinates regional office operations, and directs the agency's EEO program. In addition, the Executive Director's Office ensures agency-wide compliance with broader federal requirements imposed by the Office of Management and Budget (OMB), the General Accounting Office (GAO), the General Services Administration (GSA), and the Office of Personnel Management (OPM).

The Office of the Secretary (OS) schedules Commission meetings, prepares and maintains minutes of Commission actions, and reviews documents submitted to the Commission for action and all official orders, releases and other documents approved by the Commission or by the staff pursuant to delegated authority. The office publishes official documents and releases of Commission actions in the Federal Register and the SEC Docket, monitors compliance with the Regulatory Flexibility Act, and tracks compliance with the Government in the Sunshine Act. The office receives documents in administrative proceedings, requests for confidential treatment, and comment letters on rule proposals. The Commission also tracks disgorgements and Insider Trading Sanctions Act (ITSA) payments through the Secretary's Office. Additionally, the Secretary operates the headquarter's library and coordinates regional library activities.

The Office of Public Affairs (OPA) communicates the Commission's policies and actions to the news media and the public, disseminates information internally and externally regarding SEC activities, and prepares and distributes educational materials for investors.

Administrative Support: The Office of the Comptroller (OC) is the administrative organization responsible for the financial management and budget functions of the SEC. Specific activities include cash management, administrative accounting, payroll, voucher audit, and budget formulation, justification and execution. The office is also responsible for liaison on accounting and budget issues with the Congress, OMB, the Treasury Department, and GAO.

The Office of Information Systems Management (ISM) is responsible for all data processing activities. These include information security and integrity, operation and maintenance of computer and telecommunications hardware and software, enhancement of existing mainframe systems, development of new information systems, and integration of automation initiatives within the Commission's existing information infrastructure. ISM is also responsible for identifying and implementing new technologies, including networking, office automation, and microcomputer applications to support specialized agency activities, such as enforcement case analyses and market surveillance.

The Office of Personnel (PD) develops and administers programs for the effective management of human resources. These programs include recruitment, training, position management and classification, employee benefits, labor relations, counseling, employee recognition, and disciplinary actions. The office also monitors turnover to assist in formulating hiring strategies to avoid personnel shortfalls and their adverse effects on productivity.

The Office of Administrative Services (OAS) is responsible for managing the agency's facilities, including regional and branch offices. In performing these responsibilities, OAS provides a wide range of logistic and office support services, such as procurement, contract and lease administration, supply and space management, mail receipt and distribution, and printing and graphic services. OAS also conducts safety programs, plans emergency preparedness, and arranges for building security and other services.

Office of the Inspector General: This Office has several responsibilities under the Inspector General Act, including audits of Commission operations, investigations of allegations of internal misconduct, and review of legislation and regulations concerning the prevention of fraud or abuse. The Inspector General recommends policies to promote efficiency and the prevention of fraud. In addition, the office maintains relationships with the audit community, keeps the Chairman and the Congress fully informed of its activities, and complies with GAO and other standards.

Program Environment

Policy Management: The evolution of the financial markets since the October 1987 market break has confirmed their interdependence both domestically and internationally. The Commission has pursued a leadership role in seeking greater cooperation and coordination with domestic and foreign regulators. The SEC is working with foreign regulators to share information on enforcement and market matters; to improve clearance, settlement, and payment systems; and to facilitate cross-border securities transactions. In addition, the

Commission is increasingly involved in the drafting and review of proposed legislation affecting financial markets and institutions. Proposals such as those concerning efforts to amend current banking and securities laws place increasing demands upon the Executive Staff for timely and detailed analysis. Finally, the Executive Staff supports the Chairman in making management decisions relating to the allocation of resources, program support, and administration.

As identified above, the high profile and significance of the many issues impacting securities markets, such as market volatility, program trading, proposed Glass-Steagall reform, and the globalization of securities markets, have fueled greater Congressional interest in the SEC. The workload of the Office of Legislative Affairs and the Executive Staff increases in direct relation to enhanced Congressional interest and legislative activity in the securities field.

The Executive Director's Office, along with the support offices, continues to monitor the factors impacting SEC operations, incorporating them into effective management and policy strategies. Through a coordinated program of technological innovation and prudent management oversight, the Executive Director's Office advances the mission of the agency. The Commission excels in providing targeted automation support to priority program activities and program management. The Executive Director and the support offices strive to develop new procedures to improve budgetary practices, enhance staff productivity, and control administrative costs.

The Commission's Office of Equal Employment Opportunity (EEO) manages equal employment and affirmative action programs for the SEC. The recommendations of a recent independent study of the Commission's EEO program are still being evaluated, but their implementation has already begun. These recommendations will improve the effectiveness and administration of EEO operations, as well as improve employee awareness of the office and its programs.

The increasing complexity of Commission activities is reflected in the number of pages of Commission minutes prepared by the Secretary's Office. The number of pages has risen dramatically above the 1988 level. In addition, increases in agency staff levels and public requests for information have substantially elevated demands on the Secretary for library materials and assistance.

New communications requirements have been generated by enforcement cases involving Wall Street individuals and institutions, the Commission's greater visibility internationally, and ramifications of market volatility. The Office of Public Affairs is responding to a larger number of public and media inquiries regarding SEC regulations and actions. The Public Affairs staff ensures that information accurately reflects Commission action, improving the public's understanding of the agency and its work in the process.

Administrative Support: The Office of the Comptroller is committed to enhancing the Commission's financial management and budget functions in accordance with changing SEC and federal requirements. In response to government-wide initiatives in cash management and financial integrity, such as Reform 88, the Comptroller is now using a new accounting system -- the Federal Financial System (FFS). The office aggressively pursues the use of automated financial systems to support the Commission's emphasis on information technology and to meet ever tighter financial standards promulgated by the Prompt Payment Act.

The Office of Information Systems Management provides the Commission with the automation tools necessary to keep pace with the marketplace and the need for increased staff productivity. In meeting these ends, ISM furnishes central data services, distributed automation capabilities, and the application of new automation technologies. This support role is evolving along two lines. First, ISM maintains mainframe computer data base systems to support SEC program areas in carrying out their regulatory, enforcement, and disclosure activities. Second, ISM supports and assists in the development of PC-based technology within the Commission. The integration of these two lines is achieved through the use of local and wide area data networks.

The Office of Personnel leads the Commission's efforts to compete with the salaries of other federal financial regulatory agencies and the private sector. The agency is experiencing significant problems recruiting and retaining sufficient numbers of experienced staff. The personnel staff must contend with inflexible pay scales, well below the salaries of other federal financial regulatory agencies and the private sector. Limited promotion opportunities, determined by government-wide classification standards, coupled with minimal employee benefits, present great challenges to the Commission's recruitment program. Because of these constraints, the agency continues to lose staff, especially attorneys, accountants, secretaries, and computer programmers. In 1989 the SEC turnover rate for secretaries was 25%, for attorneys the rate was 13%, for computer specialists it was 19%, and for accountants it was 15%. These rates far exceed government-wide averages and have done so for the last six years.

Increasing challenges face the Office of Administrative Services in complying with federal space requirements, improving property and procurement management, and providing logistical support to larger numbers of employees. The OAS staff must meet new responsibilities under GSA's delegated leasing and contracting authority. The SEC now manages all the leased headquarters and field facilities where the agency is the prime government tenant. In addition, OAS is responsible for administering the contract for guard services in the headquarters building. The volume of SEC mail, processed and routed by OAS, is growing dramatically. The office must also expand its contract operations to meet the more vigorous requirements of the Federal Acquisition Regulations, as applied to a growing number of agency contracts.

Office of the Inspector General: The Office of the Inspector General will be involved with several issues pertaining to substantive Commission programs, such as the development of the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system within the Full Disclosure program. In the administrative area, the introduction of computer technology throughout the Commission and installation of a new financial accounting system are central focuses of attention in the Inspector General's Office.

1989 Program Evaluation

Policy Management: In 1989, the Commission held 78 meetings to consider 419 rule proposals, enforcement actions, and other matters that significantly affect the stability of the markets and the nation's economy. In carrying out its mission, the Commission has actively sought to consider the divergent viewpoints of investors and the securities industry in general. During 1989, the Executive Staff supported Commission attention to a wide range of issues including penny stock fraud; a wide variety of enforcement actions, including those involving insider trading by Wall Street professionals; and market reform, financial services reform, and other legislation affecting the Commission. The Executive Staff supported the Commission's role as a leader in the globalization of securities markets analyzing such issues as international clearance, settlement and payment mechanisms; international enforcement of securities laws; the exchange of information with foreign regulators; and access to foreign markets.

Within the Executive Staff, the Office of Legislative Affairs coordinated Commission testimony for 14 Congressional hearings through September, 1989. The topics included takeovers, leveraged buyouts, international enforcement cooperation, globalization of securities markets, market reform, enforcement remedies, penny stock fraud, amendments to the securities laws, and the Commission's budget reauthorization. In addition, the OLA coordinated testimony for the Congressional hearings on American Continental Corporation and Lincoln Savings and Loan. The OLA staff processed Congressional requests for SEC documents and technical assistance, and arranged briefings for committee staffs and members of Congress.

The Executive Director's Office maintained a comprehensive program of financial oversight, initiated special projects, justified the agency budget request to OMB and Congress, and completed the agency's budget authorization request for fiscal years 1990 to 1992. In January, 1989 the Executive Director's Self-Funding Study was submitted to the Securities Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs. The study described the personnel and funding difficulties facing the SEC, and presented alternative solutions. The Executive Director has subsequently worked with Congressional staff and provided additional information and analysis relating to the study's recommendations. Other major projects coordinated by the ED staff included modifications to the Commission's public reference room rules, initiation of automation projects aimed at developing both a local area network (LAN) and a wide area network (WAN), and installation of a pilot automation system in the Boston Regional Office. In addition, the office began coordinating internal control and audit follow-up responsibilities throughout the Commission. Finally, the ED staff continued to provide assistance to the Office of EDGAR Management in procurement and system development.

Throughout 1989, the Office of Equal Employment Opportunity conducted a full range of EEO programs. These activities focused on minority employment and preventing sexual harassment. The EEO staff cooperated with the outside consultant who studied the agency's EEO processes. The report's recommendations will assist in effective execution of laws and regulations.

The Secretary's Office prepared 1,600 pages of minutes summarizing action items considered at 78 Commission meetings or decided by seriatim process. The office processed 2,943 releases, issued 15,758 orders, and published 1,083 documents in the Federal Register. With the assistance of ISM, the office also implemented an automated system to track disgorgements and penalties imposed in enforcement actions. The library, under the Secretary's management, acquired new publications, responded to staff research requests and published the Library Information Bulletin.

As a result of the Commission's greater visibility, the activity level of the Office of Public Affairs has increased. OPA responded to over 83,000 telephone, in-person, and written inquiries. The office coordinated 94 news releases and conducted 50 press briefings in 1989. In addition, the office coordinated publication of the Commission's Annual Report to Congress. The Public Affairs staff published the SEC News Digest on 249 business days, disseminated daily material of interest to the Commission, and published and updated agency brochures as needed. The office also acted as the receiving point for foreign visitors, accommodating 400 such visitors in 1989.

Administrative Support: In 1989 the Office of the Comptroller successfully supervised the agency's conversion to the new Federal Financial System (FFS). In addition to its other on-going financial management and budget functions, the office performed an on-site compliance review of the Executive Staff's budget and payroll processes, and conducted related budget and payroll system training for staff in the New York Regional Office. An increase in the number of SEC travelers using Diners Club cards has enabled the SEC to increase the daily balance of cash in Treasury interest-bearing accounts. The office pursued efforts at facilitating the deposit of fee revenue into Treasury interest-bearing accounts through electronic funds transfer and lock-box facilities.

During 1989, the Office of Information Systems Management provided SEC program divisions with technological assistance in dealing with heightened market volatility, increased enforcement activities, and the complexity of globalized markets. For example, ISM provided services to the Division of Enforcement through provision of an electronic blue sheet tracking system, a PC-based document tracking system for major enforcement cases, and specific PC support for the penny stock fraud initiative. The Division of Market Regulation was supported through the implementation of a trading practices tracking system and major improvements to the existing system for tracking securities traded on exchanges. Beyond program related activities, ISM continued to improve upon SEC administrative and management systems. In order to ensure the integrity of the Commission's data resources, a review of ADP security was initiated in 1989. Throughout 1989, ISM provided technical support in the EDGAR procurement evaluation and subsequent developmental activities. Finally, significant contributions have been made by ISM in assisting the agency's efforts to implement local and wide area networks which will benefit all components of the Commission.

In 1989, the Office of Personnel revised or adopted new internal regulations concerning training, performance appraisals, grievances and leave transfer. The office sponsored more than 200 training sessions, the majority of them computer related. In addition, the Office of Personnel counseled managers and staff on performance and conduct-related problems, provided technical advise on disciplinary actions and employee grievances, participated in job fairs to recruit secretaries and computer programmers, and aggressively recruited securities compliance examiners and accountants using examining authorities delegated by OPM and extensive advertising.

During 1989, the Office of Administrative Services coordinated several substantial projects. OAS successfully directed the relocation, equipment purchases, mechanized file installation, layout, and design of the New York Regional Office. The office conducted similar activity for the Philadelphia Regional Office. OAS also acquired additional space in the headquarters building. Alterations to the headquarters public reference room complemented its revised operating procedures; and the Commission's press room was relocated and enlarged to bring the SEC into line with other Federal agencies providing space to the press. Finally, in support of SEC automation efforts, and specifically EDGAR, OAS coordinated the installation of horizontal cabling throughout the headquarters building.

Office of the Inspector General: The Office of the Inspector General was established in March, 1989, as required by the Inspector General Act Amendments of 1988. The IG pursued audits in many areas, including payroll, contracting, travel, data center, EDGAR, fee collections, and system development. Investigations were conducted concerning unauthorized disclosure or theft of nonpublic information, payroll and voucher irregularities, alleged conflict of interest, and misrepresentation of facts. Finally, the office began development of procedures to review legislation and rules.

1990 Appropriation

Policy Management: The Commission will continue to address issues such as the linkage of national markets, access to foreign securities markets, and international cooperation in law enforcement in 1990. Commission leadership in the globalization of financial markets will be maintained through the Chairman's position as Chairman of the Executive Committee of the International Organization of Securities Commission's (IOSCO). Beyond these issues, Executive Staff attention will be focused on increased legislative activity affecting the SEC, penny stock fraud and blank check offerings, regulation of the financial services industry, and reform of the banking and securities laws. As a result of continued growth in the size and complexity of the securities industry, the Executive Staff will support Commission attention to an anticipated 525 calendar items considered at an estimated 110 Commission meetings. This represents a 25% increase in calendar review workload over the level in 1989. As both the issues before the Commission and public interest in these issues mount, the correspondence efforts of the Executive Staff and the Office of the Chairman will become increasingly important in communicating the goals and priorities of the SEC.

The Office of Legislative Affairs will continue to coordinate Commission testimony and liaison with Congress. The office will monitor Congressional hearings, track legislation, arrange legislative drafting assistance, and accommodate Congressional requests for documents and information. With the increasing number of legislative proposals affecting the Commission, such as the reform of securities and banking laws, the demands for testimony and legislative analysis by members of the Commission and the staff will increase in 1990.

The Executive Director's Office will formulate overall budget policy, direct regional and support offices, and coordinate responses to requests for information from GAO, GSA, OMB, OPM, and the Congress. The Executive Director will continue to provide leadership with respect to self-funding issues, and assist the Congress as it considers the options presented in the Self-Funding Study. More attention will be devoted to overseeing the hiring and retention of experienced staff throughout the agency.

Staff within the Executive Director's Office will continue to coordinate the agency's internal control and audit follow-up activities pursuant to OMB circulars A-50, A-123 and A-127. The Executive Director will conduct management studies targeting improved agency productivity and organization. In addition, the office will maintain its commitment to modernization of the Commission's automated systems and development of the operational EDGAR system. The office will continue to support the EEO and affirmative action goals of the agency. ED and EEO staff will evaluate and implement improvements in the EEO process in light of the recent outside study.

The Office of the Secretary will prepare approximately 1,700 pages of minutes, and 11,120 pages for publication in the Federal Register. Over the course of 1990, the staff will process an estimated 3,031 releases and 20,600 orders. The office also will implement an automated records system for tracking all Commission actions. The library anticipates responding to 5,876 research inquiries, acquiring 35,600 new items, circulating 20,275 books and periodicals, and continuing to publish 24 issues of the SEC Library Information Bulletin.

In 1990, the Office of Public Affairs will continue to publish the SEC News Digest daily, disseminate material to Commission members and staff, and coordinate publication of printed materials. Other on-going programs in the office, such as press relations, the Foreign Visitors Program, and liaison with regional offices, will be maintained. Potential projects for 1990 include improvement in public dissemination and communications, an assessment of the impact of the internationalization of securities markets with respect to public awareness, and activities in support of public information on penny stock fraud.

Administrative Support: In 1990, the Office of the Comptroller will provide more SEC users with on-line data input, review, and inquiry capabilities on the agency's new FFS accounting system. User training and assistance needs for the new system will also be met by the Comptroller's Office. Work will continue with other SEC organizations to expedite the use of lock-box and electronic funds transfer facilities to deposit SEC fee revenue into Treasury interest-bearing accounts. In other areas, compliance with payroll and budget regulations will be monitored through the performance of on-site reviews of SEC organizations.

In 1990, the Office of Information Systems Management will provide SEC program divisions with improved access to both external data services and self regulatory organizations. Such services will provide SEC divisions, such as Enforcement and Market Regulation, with timely and extensive market monitoring abilities. Broader staff access to data will also be provided through a link between the EDGAR system and the SEC mainframe computer environment. In addition, a redesign of existing mainframe systems will be initiated to modernize their operation. ISM will also redesign the agency's fees accounting system to support the electronic filing and fee payment environment envisioned with the EDGAR system.

The Office of Personnel will continue to emphasize training in the areas of management, supervision, computer skills, affirmative action, and equal opportunity in 1990. With EDGAR training beginning in 1990, the number of training requests processed will increase by 50% over fiscal year 1989. The office will give top priority to recruiting and retaining staff by developing new programs to reach candidates, especially minorities. The office will enhance personnel management evaluations in each of the organizational units of the agency. The office will also seek authority for the Commission to determine hiring criteria and staff salaries. If approved, a major initiative and staff resource commitment will be necessary to implement the new pay and hiring plans that would result. In addition, the office will begin implementation of the Commission's comprehensive drug-prevention program in 1990.

The Office of Administrative Services will procure new leases for the relocations of the Denver Regional Office and the Miami Branch Office. The office also will provide support for the installation of EDGAR workstations and the removal of surplus property throughout the agency. Finally, OAS will acquire delegated lease management authority at the Philadelphia Regional Office.

Office of the Inspector General: The Inspector General's Office will implement an audit program of administrative support functions. These audits will focus on the Commission's status as a net revenue generator for the Federal Government. Audit surveys of major Commission programs will also be conducted. Finally, impact statements for Commission rules will be reviewed on a selective basis.

1991 Program Request

Policy Management: The Executive Staff will support the Commission in solidifying and expanding its leadership role with respect to the globalization of securities markets in 1991. This leadership role will be exemplified by SEC preparation for the 16th annual IOSCO conference to be held in Washington, D.C. in 1991. The Commission and its staff will play an instrumental role in the technical recommendations adopted by IOSCO at the 1991 conference.

The Executive Staff will continue to provide quality analysis on a timely basis, as well as to coordinate and manage the Commission's decision-making process. With added personnel, the Executive Staff will be able to support the Commission's attention to 541 calendar items -- 29% more than were addressed in 1989. Issues related to market volatility, market reform, the enforcement of the securities laws, and the structure of the financial services industry will continue to be important items on the Commission's agenda in 1991. In addition, the Executive Staff will be active in supporting Commission initiatives regarding tender offers, reform of the securities laws, and cooperation with foreign regulators and law enforcement agencies. Legislative activity surrounding reform of the banking and securities laws, program trading, and the savings and loan industry will demand the allocation of staff to the preparation of testimony for the Chairman, Commissioners, and staff. Finally, the correspondence and communications duties of the staff increase along with the Commission's involvement in publicly visible issues and legislative initiatives. Additional funds in 1991 will allow the Executive Staff to keep pace with the growing complexity and the rapidly changing legislative environment surrounding financial markets at home and abroad.

As the Commission faces evolving international concerns, sophisticated schemes for market manipulation and insider trading, and a growing reliance on complex trading strategies in the markets, the coordination and support of SEC programs will become vital to the fulfillment of the Commission's mission. With additional staff in 1991, the Executive Staff will actively support the Chairman in his role as the agency's chief management official -- assisting in key staffing and resource allocation decisions.

The Office of Legislative Affairs will provide the Commission with direct Congressional liaison, legislation monitoring and tracking, and legislative analysis services. The globalization of securities markets and EC '92 will stimulate the Commission's international program -- and Congressional interest in it.

In an effort to prevent fraud, abuse and mismanagement within the agency, the Executive Director's Office will continue to manage the Commission's internal control and audit follow-up functions in compliance with the Inspector General Act Amendments of 1988. The office will undertake management studies aimed at improving operations both in the headquarters office and in the regions. The office will also maintain a systematic program of management reviews, prepare the agency's budget justification, direct regional and support offices, and respond to requests from GAO, GSA, OMB, OPM, and the Congress.

The Executive Director will continue to act as liaison between program organizations and support offices within the SEC, ensuring that program activities are properly supported. The office's commitment to the integration of operational EDGAR with existing Commission systems, along with the other SEC automation efforts, will be maintained. Finally, ED staff will work to implement the recommendations of the consultant's study to improving the effectiveness of Commission EEO programs.

The Secretary's Office will prepare and maintain approximately 1,800 pages of minutes relating to the Commission's consideration of 541 items in an estimated 113 meetings. The staff will also process an estimated 3,091 releases and 21,000 orders and prepare about 11,342 pages for publication in the Federal Register. The library will maintain its operations -- loaning materials, ordering publications, cataloging and processing new items, maintaining the stacks, and keeping looseleaf materials up-to-date.

Key internal and external communications will be maintained by the Public Affairs staff. Changes in existing programs or new initiatives by the Commission will be responded to rapidly by the office. The office will provide support for internationalization in areas such as press relations and preparation for the 1991 IOSCO conference. In addition, the Office of Public Affairs will assist the Commission in promoting international cooperation by accommodating an estimated 500 foreign visitors in 1991 -- a 25% increase over 1990.

Administrative Support: The Office of the Comptroller will work to improve payroll, voucher audit, and budgetary processes. Emphasis will be focused on compliance with ever more stringent Prompt Payment Act requirements which can potentially increase interest and penalties incurred by the agency.

With the requested staffing level in 1991, the Office of Information Systems Management will continue to maintain and update the Commission's critical mainframe computer systems and data bases. Contractor-staffed initiatives, such as phase II of the Commission's correspondence tracking system and local area network support, also will be conducted under ISM management and supervision. As part of the Commission's overall systems integration effort, the existing SEC data communications network will be maintained with enhancements to provide for distributed processing and communication with other applications such as EDGAR. In support of market monitoring efforts by the Divisions of Enforcement and Market Regulation, ISM will provide access to external sources of automated market information. Finally, ISM will continue to lead agency initiatives aimed at overall office automation.

The Office of Personnel will be able to meet all of its on-going responsibilities, as well as enhancing the agency's recruitment program. The office will promote increased training on issues of international securities regulation through speaking engagements, exchanges, and temporary assignments. In other areas, the office will give greater priority to employee assistance and counseling. Personnel staff will closely monitor the performance evaluation and classification activities of employees. The requested funding level will allow the office to conduct the agency's drug prevention program. Finally, the office will implement the provisions of the outside study of EEO programs, including personnel management evaluations, statistical analysis, minority recruitment, and participation in reviews of division and office compliance with EEO and personnel practices.

The Office of Administrative Services will provide selective attention to procurements involving office automation, specialized software, and mainframe computer equipment. OAS will comply fully with GSA requirements for delegated lease management of all SEC facilities. The staff will ensure that internal mail delivery is timely and that incoming mail is processed the same day it is received. The amount of mail received by the agency has grown significantly as a result of expansion within the industry, greater publicity of Commission actions, an increase in investor awareness and the addition of staff.

Office of the Inspector General: The Office of the Inspector General will conduct program performance audits in addition to its ongoing administrative audits. Regional activities will be reviewed as part of these program evaluations. Investigations will be reactive in nature, and delays will be minimal. The office will conduct selective reviews of rule proposals and prepare internal impact statements.

Program Direction

Workload Data

Activity	1989 Actual	1990 Estimate	1991 Estimate
Policy Management			
Executive Staff			
Commission Meetings	78	110	113
Calendar Items	419	525	541
Staff Years	**31**	**38**	**42**
Executive Director			
Major Projects	24	29	29
Other Projects	59	71	71
Staff Years	**15**	**18**	**18**
Secretary			
Pages of Minutes	1,600	1,700	1,800
Federal Register			
Documents	1,083	1,200	1,321
Pages	10,920	11,120	11,342
Releases			
Documents Processed	2,943	3,031	3,091
Official Orders	15,758	20,600	21,000
Correspondence/Confidential Filings	2,396	2,875	3,450
Public Comment Letters	4,444	4,494	4,554
Library			
Materials Circulated	19,684	20,275	20,883
Library Use	102,348	104,395	104,916
Research Requests	5,705	5,876	6,052
Items Cataloged	3,709	3,820	3,935
Staff Years	**18**	**18**	**18**
Public Affairs			
Telephone Inquiries Processed	81,000	82,000	82,000
Written Inquiries Answered	1,500	2,000	2,000
In-Person Inquiries Handled	1,150	1,200	1,200
Press Releases	94	100	100
Press Briefings	50	53	53
SEC Daily News Digest Dissemination	249	250	250
SEC Daily News Clips Dissemination	249	250	250
Foreign Visitors	400	400	500
Staff Years	**8**	**8**	**9**

Activity	1989 Actual	1990 Estimate	1991 Estimate
Administrative Support			
Comptroller			
Payroll Section			
Payroll Actions	7,200	7,780	8,250
Electronic Funds Transfer	71,200	81,200	93,400
Checks	18,200	15,000	10,000
Accounts and Reports			
Host Paid Billings	475	510	550
Travel Agent - Tickets Issued	2,850	3,000	3,250
Electronic Fees Deposited	2,350	5,350	33,350
Checks Deposited	41,500	38,500	10,500
Travel Vouchers			
On Hand	225	230	275
Received	8,722	9,400	10,100
Processed	8,717	9,355	10,100
Backlog	230	275	275
Miscellaneous Invoices			
On Hand	773	860	600
Received	12,967	13,000	13,100
Processed	12,880	13,260	13,360
Backlog	860	600	340
Staff Years	25	27	28
Information Systems Management			
New Systems	5	6	7
Systems Maintained and Updated	105	107	109
FOIA and other Ad-hoc Requests Processed	850	900	950
Hardware/Operating Systems Maintained and Improved	6	7	8
Staff Years	70	80	83
Personnel			
Personnel Actions Processed	12,572	14,000	14,000
Staff Members Trained	1,189	1,500	1,600
Training Sessions Attended	2,283	3,500	3,700
Position Management/Reviews	2,547	2,500	2,500
Program Reviews	7	12	18
Staff Years	29	30	31

Activity	1989 Actual	1990 Estimate	1991 Estimate
Administrative Services			
Procurements (Contracts/Purchase Orders)	1,310	1,470	1,470
Moves (pieces)	13,920	14,200	14,200
Imprest Fund Transactions	2,780	2,915	2,915
Print Plant Production (in millions of pages)	56	57	57
Copy Services (in millions)	25	26	26
Graphics Requests Completed	1,035	1,150	1,150
Leases Administered	8	8	10
Staff Years	64	67	69
Office of the Inspector General			
Audits 1/			
Pending Beginning of Year	N/A	4	4
Opened	N/A	13	13
Closed	N/A	13	13
Pending End of Year	N/A	4	4
Staff Years	5	6	6
Total Staff Years	265	292	304

1/ The Office of the Inspector General was established in March, 1989. Therefore, all workload data will be tracked starting in 1990.

SUMMARY - OTHER EXPENSES

($000)

	Item	1989 Actual	1990 Estimate	1991 Estimate	Change
A.	Personnel benefits	$15,332	$18,780	$23,212	$ 4,432
B.	Benefits to former employees	196	357	264	(93)
C.	Travel and transportation of persons	4,166	5,095	5,382	287
D.	Transportation of things	63	85	85	0
E.	Communications and rental	16,777	20,386	20,872	486
F.	Printing and reproduction	1,253	1,344	1,451	107
G.	Other services	14,384	17,080	20,626	3,546
H.	Supplies and materials	2,385	3,664	4,897	1,233
I.	Equipment	4,536	6,603	7,206	603
J.	Claims and indemnities	53	0	0	0
	TOTALS	$59,145	$73,394	$83,995	$10,601

A. Personnel Benefits
($000)

Funds requested under this category cover the Commission's share of costs for life and health insurance, retirement, social security and medicare taxes. Also included in this category are payments for employee relocation expenses for permanent changes of duty station.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Life insurance contributions	$ 131	$ 148	$ 172	$ 24
Contributions to Civil Service Retirement Fund	3,082	3,348	3,388	40
FERS retirement	4,693	5,907	7,799	1,892
FERS thrift	1,014	1,262	1,681	419
Social Security taxes	2,837	3,329	4,588	1,259
Health benefits contributions	2,942	3,993	4,782	789
Medicare tax	533	613	622	9
Subsistence and temporary expenses	15	50	50	0
Real estate costs	53	75	75	0
moving expenses	1	5	5	0
Relocation income tax allowance	31	50	50	0
TOTALS	$15,332	$18,780	$23,212	$4,432

The $24,000 change in life insurance contributions includes $1,600 related to mandatory within-grade and merit pay costs, $3,200 to support an increase in average employment, $3,000 for the annualization of new 1990 positions, $7,300 for the new 1991 positions, and a net $8,900 for the 1990 and 1991 pay raises less absorption.

Contributions to the Civil Service Retirement Fund will increase a net $40,000. This includes $37,700 related to within-grade and merit pay costs, $12,700 for one more work day and $201,000 for the 1990 and 1991 pay raises adjusted for absorption; less $211,400 from staff turnover resulting in fewer employees being covered under CSRS and more under FERS.

The $1,892,000 increase in contributions to the Federal Employees' Retirement System (FERS) includes $63,600 related to within-grade and merit pay costs, $21,500 for one more work day, $391,400 from staff turnover out of the CSRS, $13,000 in rate increases, $258,400 to support an increase in average employment, $237,300 to annualize the new 1990 positions, $568,900 for the new 1991 positions, and a net $337,900 for the 1990 and 1991 pay raises less absorption.

The FERS thrift plan increase of $419,000 includes $14,100 related to within-grade and merit pay costs, $4,700 for one more work day, $87,000 from staff turnover out of the CSRS, $57,500 to support an increase in average employment, $53,200 to annualize the new 1990 positions, $127,200 for the new 1991 positions, and a net $75,300 for the 1990 and 1991 pay raises less absorption.

Social Security taxes will increase $1,259,000 to accommodate $163,000 in additional costs from a scheduled rise in the Social Security wage base and rate, $37,100 for within-grade and merit pay increases, $12,400 for one more work day, $226,800 for staff turnover from the CSRS, $150,800 to support an increase in average employment, $138,700 to annualize the new 1990 positions, $332,000 for the new 1991 positions, and a net $198,200 for the 1990 and 1991 pay raises less absorption.

Health benefits will change by $789,000 to accommodate increased costs of $485,000 for greater employer costs of health plan insurance rates which are renegotiated annually by the Office of Personnel Management, $73,700 to support an increase in average employment, $67,800 to annualize the new 1990 positions, and $162,500 for the new 1991 positions.

The $9,000 increase in the Medicare tax includes $7,900 related to within-grade and merit pay raises, $2,700 for one more work day, a net $42,400 for the 1990 and 1991 pay raises less absorption, less $44,000 from staff turnover into FERS from the CSRS.

B. Benefits to Former Employees
($000)

Funds requested in this category cover the Commission's costs for benefits and other payments made from the Employee's Compensation Fund to or on behalf of former Commission employees. Payment, based on invoiced costs, is made to the Department of Labor as required by 5 U.S.C. 8147.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Accident compensation	$ 110	$ 266	$ 173	$ (93)
Unemployment compensation benefits	86	91	91	0
TOTALS	$ 196	$ 357	$ 264	$ (93)

The decrease of $93,000 is based on billed costs for 1991 received from the Department of Labor.

C. Travel and Transportation of Persons
($000)

Funds requested under this category cover travel costs for employees in the performance of their official duties, for an employee's family in the case of a change of duty station, and for travel to a first duty station of new employees in selected employment occupation and classification groups.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Transportation of persons	$1,755	$ 2,164	$ 2,375	$ 211
Commercial rental of automobiles	145	176	176	0
Subsistence expenses	1,215	1,477	1,553	76
Incidental expenses	42	52	52	0
Mileage - use of private automobile	141	171	171	0
Compensation of witnesses	631	767	767	0
Government motor pool rentals	28	34	34	0
Taxis	208	253	253	0
Family Travel Expenses	1	1	1	0
TOTALS	$ 4,166	$ 5,095	$ 5,382	$ 287

A change of $287,000 is required for transportation services and subsistence expenses. This includes $187,000 for program travel related to the new 1991 positions and $100,000 to meet rising public carrier costs.

D. Transportation of Things
($000)

Funds requested under this category cover the costs of shipping employee household goods in selected instances of initial hiring or change of duty station, moving agency freight and renting trucks.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Transportation of things	$ 32	$ 42	$ 42	$ 0
Rental of trucks	1	3	3	0
Transportation of household goods	30	40	40	0
TOTALS	$ 63	$ 85	$ 85	$ 0

No change is requested in this account.

E. Communications and Rental
($000)

Funds requested under this category cover costs associated with teletype, telephone and telegraph services, mail charges and a variety of rentals including space, ADP equipment and software.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Telegraph service	$ 5	$ 5	$ 5	$ 0
Telephone - local	1,274	1,433	1,433	0
Telephone - long-distance	2,391	3,053	2,140	(913)
Teletype and ticker service	20	20	20	0
Postage	518	500	500	0
Rental of space	11,530	13,900	15,199	1,299
Rental of key punch equipment and computer components	419	939	1,039	100
Rental of other equipment	620	536	536	0
TOTALS	$16,777	$ 20,386	$ 20,872	$ 486

The $913,000 reduction in long-distance telephone service represents a pro-rata share of expected government-wide savings from the General Services Administration's (GSA) installation of the new "FTS-2000" telecommunications network for voice and data transmissions.

Rental of space costs, payable to the GSA, are increasing by $1,299,000. This change includes $606,000 to house the requested 1991 positions and $693,000 to offset other expenses imposed by GSA. The latter includes a 4.4 percent across-the-board price adjustment and the annualization of new 1990 costs for office, storage, conference and training space in a variety of other regional locations.

The $100,000 change in the rental of key punch equipment and other computer components is required for peripheral main-frame devices to meet program demands for an increase in the output and quality of printed reports.

F. Printing and Reproduction
($000)

Funds requested under this category cover the costs of all printing and reproduction work performed by the Government Printing Office or other outside sources.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Printing and binding	$1,158	$ 1,213	$ 1,320	$ 107
Photo duplication and reproduction	95	131	131	0
TOTALS	$1,253	$ 1,344	$ 1,451	$ 107

The $107,000 change is required to meet a increasing demand for pre-punched computer paper in support of developing agency main-frame and employee microcomputer requirements.

G. Other Services
($000)

Funds for this category cover the cost of a variety of contractual services, as described in the following table.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Equipment maintenance and repairs	$ 830	$ 1,010	$ 1,010	$ 0
Office alterations	433	676	676	0
Guard service	376	379	379	0
Air conditioning and heating	73	76	76	0
Miscellaneous expenses	218	319	319	0
Stenographic reporting contracts	1,255	1,400	1,400	0
Purchase of transcripts	493	471	471	0
Training expenses	336	365	365	0
Health unit expenses	147	152	152	0
Storage of household goods	5	7	7	0
Background investigations	36	40	40	0
Moving expenses	57	26	26	0
ADP and other contractual services	10,123	12,156	15,702	3,546
Reception and representation	2	3	3	0
TOTALS	$14,384	$17,080	$20,626	$3,546

A change of $3,546,000 is required for ADP and other contractual services. The operational EDGAR contract will require an additional $1,933,000 in 1991. Other non-EDGAR changes include: $1,322,000 to provide an improved ADP capability for the capture and processing of increasing quantities of securities and transaction data in support of growing program needs in the agency's domestic and expanding international environment, $191,000 for overseas and domestic enforcement services (i.e. translation services and overseas counsel), and $100,000 to host an annual conference of the International Organization of Securities Commissions (IOSCO).

H. Supplies and Materials
($000)

Funds requested in this category cover the costs of items which are ordinarily consumed or expended within one year, or are needed to form a minor component of a piece of equipment or fixed property.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Office and duplicating supplies	$1,096	$ 1,255	$ 1,402	$ 147
Newspapers	25	25	25	0
Library materials	649	693	693	0
Microfiche services	4	4	4	0
Software purchases	611	1,687	2,773	1,086
TOTALS	$ 2,385	$ 3,664	$ 4,897	$1,233

Office and duplicating supply needs are increased by $147,000 consisting of $55,000 to support the new 1991 positions and $92,000 for the agency's automation systems.

The $1,086,000 change in software purchases is required to support the agency's domestic and international program needs for increased data handling and processing capabilities. This can only be accomplished through the acquisition of carefully selected software which provides needed automation services and is compatible with existing and planned computer hardware.

I. Equipment
($000)

Funds requested in this category are used to purchase equipment for Commission employees and to meet program responsibilities. These items are expected to have a period of service of one year or more after being put into use.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Serially-numbered equipment and office furniture	$ 4,536	$ 6,603	$ 7,206	$ 603
TOTALS	$ 4,536	$ 6,603	$ 7,206	$ 603

The $603,000 change includes $110,000 to support the requested new 1991 positions and $493,000 to increase the input and output capabilities of the Commission's main-frame computer. This improved capability is needed to improve staff effectiveness in detecting and responding to indicators of fraud and irregular trading patterns in the domestic and expanding international securities markets.

J. Claims and Indemnities
($000)

Funds requested under this category are necessary to cover payments forlosses and claims including those under the Equal Access to Justice Act (P.L. 96-481). The Act requires Federal agencies to award attorney's fees and other expenses under the specified circumstances to individuals and certain small businesses that prevail as the parties in administrative proceedings and civil actions brought by or against Federal government.

Item	1989 Actual	1990 Estimate	1991 Estimate	Change
Claims and Indemnities	$ 53	$ 0	$ 0	$ 0
TOTALS	$ 53	$ 0	$ 0	$ 0

SECURITIES AND EXCHANGE COMMISSION

Statement of Selected Revenue
($000)

Source of Fee Revenue	1989 Actual	1990 Estimate	1991 Estimate
Registration of Securities Under the Securities Act of 1933 */	$109,353	$134,000	$136,000
Securities Transactions Under the Securities Exchange Act of 1934	57,793	62,600	67,800
Other Filings and Reports	46,605	40,000	40,000
Total Fee Revenue	$213,751	$236,600	$243,800
Fee revenue as a percentage of appropriation	150%	140%	127%

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*/ Assumes a continuation into 1991 of a 1990 fee rate change under section 6(b) of the Securities Act of 1933 from one-fiftieth of 1 percent to one-fortieth of 1 percent (Pub. L. 101-162).

Does not assume any impact from other rate changes currently under review in Congress.

Explanation of SEC Fees

The SEC collected $214 million in 1989 fee revenue, 150 percent of its appropriation. An estimated fee collection of $237 million is expected in 1990, equivalent to 140 percent of the agency's appropriation, and $244 million in 1991, equivalent to 127 percent of the agency's requested funding. All SEC fee revenue is required by law to be deposited into the General Fund of the Treasury and is unavailable to the agency for expenditure.

The fee estimate for registration fees is expected to increase by $26 million in 1990 due to a rate change under section 6(b) of the Securities Act of 1933 from one-fiftieth of 1 percent to one-fortieth of 1 percent (Pub. L. 101-162). The fee estimate assumes a continuation of the new 6(b) rate change into 1991. Modest fee increases are also expected in 1990 and 1991 from a continued investor interest in money market funds.

Securities transaction fees in 1990 and 1991 are projected to continue at a six-year average growth rate of 8.3 percent.

DETAIL OF PERMANENT POSITIONS BY GRADE

	1989 Actual	1990 Estimate	1991 Estimate	Increase/ Decrease ()
Executive Level III	1	1	1	-
Executive Level IV	4	4	4	-
Subtotal	5	5	5	-
ES-6	10	10	10	-
ES-5	9	9	9	-
ES-4	26	26	28	+ 2
ES-3	3	7	7	-
ES-2	2	2	2	-
ES-1	4	6	6	-
Subtotal	54	60	62	+ 2
GS-18	-	-	-	-
GS-17	1	1	1	-
GS-16	4	4	4	-
GS/GM-15	186	198	209	+ 11
GS/GM-14	378	406	429	+ 23
GS/GM-13	466	508	562	+ 54
GS-12	224	255	275	+ 20
GS-11	195	218	225	+ 7
GS-10	8	9	10	+ 1
GS-9	84	87	89	+ 2
GS-8	27	28	28	-
GS-7	170	180	185	+ 5
GS-6	167	177	186	+ 9
GS-5	136	147	152	+ 5
GS-4	78	81	88	+ 7
GS-3	51	51	52	+ 1
GS-2	7	7	7	-
GS-1	0	0	0	-
Subtotal	2,182	2,357	2,502	+ 145
Ungraded	26	29	29	
Total permanent positions	2,267	2,451	2,598	+ 147

Staff Composition by Job Category

	1989 Actual		1990 Estimate		Net Change	1991 Estimate	
	Number	% of Total	Number	% of Total	Number	Number	% of Total
Attorney	842	37.2	913	37.3	+ 62	975	37.5
Financial Analyst	70	3.1	70	2.9	+ 0	70	2.7
Accountant	161	7.1	179	7.3	+ 19	198	7.6
Investigator/ Securities Compliance Examiner	248	10.9	265	10.8	+ 23	288	11.1
Other Professional, Technical and Administrative	552	24.3	590	24.1	+ 19	609	23.5
Clerical	394	17.4	434	17.6	+ 24	458	17.6
Totals	2,267	100.0	2,451	100.0	+147	2,598	100.0

Average Grade and Salary Data

	1989 Actual	1990 Estimate	1991 Estimate
Average SES Salary	$76,739	$79,133	$89,935
Average GS/GM Grade	10.75	10.79	10.84
Average GS/GM Salary	$35,349	$37,116	$38,971

CONSULTING SERVICES
$(000)

	1989 Actual	1990 Estimate
Personnel Appointments	$ 0	$ 0
Contracts	$ 457	$ 457
Total	$ 457	$ 457

This exhibit provides budget information on consulting services in compliance with section 1114 of Title 31 of the U.S. Code and complies with the reporting requirements contained in Office of Management and Budget Bulletin No. 89-20, dated September 1, 1989.

Consulting expenses were primarily incurred in 1989 for management and professional support services used to assist the Commission in the design and development of financial, correspondence tracking and complaint processing systems.

The Commission's annual use of consulting services is discretionary. Therefore, the 1990 estimate assumes a continuation of 1989 service levels.

Mr. **Early**. Here to testify in support of the request is Richard C. Breeden, Chairman of the Securities and Exchange Commission. Since this is your first appearance before the Committee, we will insert your biographical sketch in the record at this point.

[The information follows:]

BIOGRAPHY OF RICHARD C. BREEDEN, CHAIRMAN, U.S. SECURITIES AND EXCHANGE COMMISSION

Richard C. Breeden was nominated to be a Member of the Securities and Exchange Commission by President George Bush on September 7, 1989. Following his confirmation by the United States Senate, Mr. Breeden was named Chairman of the Commission by President Bush. Mr. Breeden was sworn in as the twenty-fourth Chairman of the Commission on October 11, 1989. As Chairman, Mr. Breeden is responsible for leading the Commission in the development of policy, and for overall direction of the Commission. Mr. Breeden also represents the Commission, to the Congress, the Administration, the financial community and the public at large.

Mr. Breeden also currently serves as Chairman of the Executive Committee of the International Organization of Securities Commissions ("IOSCO"). In this capacity, Mr. Breeden works with the leadership of securities regulatory agencies worldwide in developing stronger international cooperation to achieve a more stable global market.

Prior to assuming the Chairmanship, Mr. Breeden served in the White House as Assistant to the President for Issues Analysis. In this capacity, Mr. Breeden was responsible for in-depth analyses of major issues and policy problems. Among these was the President's critical plan to restructure the savings and loan industry. As one of the major architects of the plan, Mr. Breeden helped to shepherd this through Congress to final passage.

From 1982-1985, Mr. Breeden served as Deputy Counsel to then—Vice President Bush. In this position he worked on regulatory problems in a variety of areas. In addition, he served as Staff Director of the President's Task Group on Regulation of Financial Services, a cabinet level group established to recommend improvements in federal financial regulatory programs. Blueprint for Reform, the Task Group's final report authored by Mr. Breeden, was issued in November 1984. From 1981-1982, Mr. Breeden served as Executive Assistant to the Undersecretary of Labor.

Mr. Breeden is a lawyer by training. From 1985-1989, he was a partner of one of the nation's leading law firms. His legal pratice included financial transactions and regulatory matters of all types. Prior to his original government service, Mr. Breeden practiced law in New York City from 1976-1981, where he handled major domestic and international business transactions. This followed completion of an appointment to teach constitutional law and federal jurisdiction at the University of Miami School of Law.

Educated at Stanford University (B.A. with honors in international relations, 1972) and Harvard Law School (1975), Mr. Breeden is the author of law review articles as well as analytical articles for legal and financial publications. Representing the United States, he has lectured in New Zealand, Indonesia, Hong Kong and Japan. He has also served as a delegate to international conferences on financial institutions and regulation, as well as on committees for local and national Bar Associations relating to financial services.

Mr. Breeden resides in Virginia with his wife, Holly, and their three sons. The family is active in local church and civic affairs.

Mr. **Early**. You may proceed with your statement.

OPENING STATEMENT

Mr. **Breeden**. Thank you, Mr. Chairman.

I am delighted to appear this morning on behalf of the Securities and Exchange Commission to present its Fiscal Year 1991 budget request of $192.4 million. This level represents support by President Bush for an increase for the SEC of 14 percent over the 1990 appropriation of $168.7 million.

In presenting the 1991 budget request, the Commission appreciates the difficult issues presented by the budget deficit and the task that Congress faces to provide adequate funding for important national and international initiatives within the existing budgetary constraints. In such an environment, increases for any agency must undergo examination to ensure that the nation's resources are directed properly. I am confident that the President's 1991 request for the SEC can withstand such analysis.

The budget increases for 1991 are focused on three areas which need special attention. First, as recent events have so dramatically reinforced, the securities markets remain vulnerable to rapid price movements. The SEC must be able to monitor market volatility and to establish capital and other prudential requirements for broker-dealers, clearing corporations and their members, and other market participants that will help to ensure the integrity and stability of the market for the benefit of all investors. At the same time, the SEC must take actions to help keep the cost of capital formation competitive.

Second, fraudulent activity continues to place investors at risk. This is particularly true with respect to small, unsophisticated investors. The SEC will emphasize cases involving penny stock fraud, actions by savings and loans and other financial institutions, and market manipulation, in an attempt to restore investor confidence.

Third, globalization affects all elements of the Nation's securities markets and each of the Commission's programs. The SEC must continue its leadership in efforts to develop a multinational regulatory structure, to institute cooperation among nations to protect investors, to harmonize capital levels and other standards for securities firms, as well as to foster other steps to improve the stability of the global marketplace.

An example of the effectiveness of the SEC's activities involves our efforts to protect investors and to avoid financial exposure to the U.S. Government during the recent events concerning Drexel Burnham Lambert Group, Inc. As the liquidity crisis that ultimately caused the Drexel's parent firm to seek bankruptcy protection spread, the Commission moved swiftly to ensure that the broker-dealer, the firm and the subsidiary dealing with the public customers would not suffer a collapse that would result in the sudden institution of a Securities Investor Protection Corporation, or SIPC, liquidation.

By assuring that adequate capital remained available to the two regulated subsidiaries, the Commission and the Federal Reserve Bank of New York made it possible for an orderly wind-down of the portfolio of the two subsidiaries and a transfer of most customer accounts to other broker-dealers. In this manner, the market was protected from instability or other secondary problems.

Most importantly, the failure of a $28 billion firm has not cost the American public or the Federal budget a single dollar, aside from normal agency resources. By contrast, several recent failures of comparably-sized bank holding companies have cost the Federal budget as much as $1 to $3 billion each.

The 1991 budget represents an increase of $23.7 million over the agency's 1990 appropriation. Twelve million dollars of this amount will be used to fund program increases, including 147 new staff positions necessary to carry out the Commission's workload, an increase of 6 percent over the 1990 level. This increase represents the minimum staff level necessary to carry out the statutory obligations given the Commission by Congress.

In addition to the budget savings from effective financial regulation, the Commission's 1991 budget request should also be considered in relation to the agency's production of revenues substantially in excess of its budget. In each of the last five years, the filing fees collected by the Commission have significantly exceeded its appropriations.

This concludes my opening remarks, and I request that my entire written statement previously provided to the committee be included in the record. The Commission greatly appreciates the support it received from this subcommittee, from the full committee, and from the Congress in our 1990 appropriation. I look forward to working very closely with you as the 1991 budget is developed. I will be pleased to answer any questions you might have.

[The statement of Mr. Breeden follows:]

Statement of Richard C. Breeden
Chairman of the Securities and Exchange Commission
Before the Subcommittee on Commerce, Justice, State,
The Judiciary, and Related Agencies of the
House Committee on Appropriations
March 27, 1990

Chairman Smith and Members of the Subcommittee:

I am delighted to appear today on behalf of the Securities and Exchange Commission to present its fiscal 1991 budget request of $192.4 million. This level represents support by President Bush for an increase for the SEC of 14% over the 1990 appropriation of $168.7 million.

Over the past decade, dramatic changes have transformed the nation's securities industry and capital markets. During the past two years, there have been several important developments in the marketplace. These include the tremendous increase in the internationalization of the world's markets, the continuing aftershocks of the October 1987 market break (including the rapid market decline on October 13, 1989), deterioration in the "high yield" bond market, the need to monitor more closely the activities of broker-dealer affiliates and parent companies in light of the failure of Drexel Burnham Lambert Group, Inc., and the growing resource demands necessary to detect and combat securities law violations.

These developments have all placed larger demands on the Commission if it is to succeed in its statutory duties of protecting investors and maintaining market stability and integrity. Together with the Commission's responsibility to regulate corporate disclosure in an environment of increasingly complex financial instruments and of rapid globalization, these trends have created a disparity between the Commission's statutory mandates and the resources available to discharge them.

In presenting the 1991 budget request, the Commission appreciates the difficult issues presented by the budget deficit and the monumental task the Congress faces to provide adequate funding for important national and international initiatives within the existing budgetary constraints. In such an environment, increases for any agency must undergo a rigorous examination to ensure that the nation's resources are directed properly. I am confident that the President's 1991 request for the SEC can withstand such analysis.

The Office of Management and Budget and the President have recognized the critical role that the Securities and Exchange Commission plays in ensuring the stability of the nation's economy by supporting this 14% increase for 1991. The requested level will permit the Commission to expend resources on critical new initiatives and to address the workload increases generated by continuing growth in financial markets.

Although the Commission will maintain its traditional, comprehensive program of investor protection and market oversight, the budget increases for 1991 are focused on three areas that need special attention. First, as recent events have so dramatically reinforced, the securities markets remain vulnerable to rapid price movements. Volatility creates risks to market stability, which may also be affected by complicated investment products and the impact of trading strategies relating to the extremely highly leveraged stock index futures market. The SEC must be able to monitor such market developments and to establish capital and other prudential requirements for broker-dealers, clearing corporations and their members, and other market participants that will help to ensure the integrity and stability of the market for the benefit of all investors. At the same time, the SEC must take actions that help keep the cost of capital formation competitive.

Second, fraudulent activity continues to place investors at risk. This is particularly true with respect to small, unsophisticated investors. The SEC will emphasize cases involving penny stock fraud, actions by savings and loans and other financial institutions, and market manipulation in an attempt to restore investor confidence.

Third, globalization affects all elements of the nation's securities markets and each of the Commission's programs. The SEC must continue its leadership in efforts to develop a multinational regulatory structure and to institute cooperation among nations to protect investors and to harmonize capital levels and other standards for securities firms, as well as to foster other steps to improve the stability of the global marketplace.

Market Volatility, Growth, and Complexity

During the 1980s, financial instruments grew rapidly in complexity, volume, and availability, domestic and transnational trading volume reached record highs, and professional organizations and firms subject to Commission oversight increased dramatically in number, size, and diversity. These trends have affected all segments of the securities industry, including broker-dealers, investment companies, and investment advisers. Similarly, complex financial products will continue to be developed, such as asset-backed securities, market basket products, and hybrid securities of various types. Operating and trading methods will be created that also will require appropriate regulatory oversight.

The Commission is concerned about market volatility and its effect on individual investors, especially after the rapid October 13, 1989 market decline. As a result, the Commission staff is reconstructing trading events of that day and preparing a report. The report should be completed in the near future. In addition, the staff has been reviewing new circuit breaker proposals from the

New York Stock Exchange, together with similar proposals of the Chicago Mercantile Exchange, to deal with market volatility. The Commission has deployed extensive resources during the past two years to resolve issues arising from the two October market crashes and continuing market-related issues.

An example of the effectiveness of SEC's activities involves our efforts to protect investors and to avoid financial exposure to the U.S. Government during the recent events concerning Drexel Burnham Lambert Group, Inc. The Commission is the primary regulator of Drexel Burnham's broker-dealer subsidiary and is also an oversight agency for the firm's government securities dealer. Together these two firms had assets of more than $20 billion. The broker-dealer had more than 30,000 public customer accounts, which held approximately $5 billion in securities.

As the liquidity crisis that ultimately caused Drexel's parent firm to seek protection in bankruptcy spread, the Commission moved swiftly to assure that the broker-dealer would not suffer a collapse that would result in the sudden institution of a Securities Investor Protection Corporation (SIPC) liquidation. By assuring that adequate capital remained available to the two regulated subsidiaries, the Commission and the Federal Reserve Bank of New York made it possible for an orderly wind-down of the portfolio of the two subsidiaries, and a transfer of most customer accounts to other broker-dealers.

In this manner, the market was protected from instability or other secondary problems. Most importantly, the failure of a $28 billion firm has not cost the American public or the federal budget a single dollar aside from normal agency resources. By contrast, several recent failures of comparably-sized bank holding companies have cost the federal budget as much as $1-3 billion each.

Although our efforts worked well in the Drexel matter, in order to minimize the potential negative consequences to the entire economy associated with market disruptions, the Commission should be able to monitor fully the risk positions of market participants. Additional staff are critical for the market oversight functions to examine the proprietary risks and exposures assumed by major U.S. broker-dealers and their largely unregulated holding company affiliates. It is also critical that staff be available and adequately qualified to analyze and evaluate the effectiveness of SRO trading, surveillance, and transaction clearance and settlement procedures and programs. By working to reduce clearance and settlement risks, small increases in Commission staff can help reduce enormous credit risks to investors associated with the current system.

The securities markets are dominated increasingly by large institutions. Assets of investment companies (IC) continue to grow, setting new records. Investors put a record $89 billion into money market funds during 1989, bringing total assets of money market funds to nearly $415 billion, and all investment companies to $1.2 trillion, as of the beginning of 1990. In addition, the securities industry has introduced many new products, such as $23.5 billion of closed-end funds since the 1987 market break. Some closed-end funds have been used as vehicles for investing in foreign securities markets that may not otherwise be accessible to investors. The staff must monitor all these funds closely to ensure adequate investor protection.

The growth of IC assets to $1.2 trillion over the last several years has made investment companies into a key segment of the entire national financial system. Indeed, investment companies now hold assets greater than one-third of the entire market capitalization of U.S. equity securities. This growth has made the IC industry as important to the health and efficiency of the overall U.S. financial markets as banks, savings and loans associations, brokerage houses, and insurance companies. To the extent that individuals invest in the securities markets, they do so increasingly through ICs rather than by direct purchase of common stocks or bonds. As of the beginning of 1990, there were over 56 million shareholders in ICs, representing 23% of all Americans. All of these shareholders depend on the Commission to enforce the rules and regulations applicable to the operation of ICs and investment advisers.

As the country's population ages and remains in the work force longer, the amount of money in pension fund assets increases. A substantial portion of these assets is managed by registered investment advisers (IAs). From 1983 to the beginning of 1990, the number of registered IAs grew by 196% to 16,239, and the amount of assets under management grew by 557% to $4.4 trillion. This accounts for a substantial portion of all financial assets owned in the United States.

As a result of these remarkable changes, the Commission has focused increasing program resources on investment company and investment adviser inspections. The staff expects to examine 89 more investment companies in 1991 compared to 1989, an 11% increase. Similarly, an additional 340 investment advisers will be inspected in 1991 compared to 1989, a 30% increase. Although inspection resources are being used effectively and efficiently, these levels are not keeping pace with industry growth. 1/

In order to oversee all elements of the nation's capital markets, the SEC needs additional staff to:

1/ Total investment company assets of $1.2 trillion are now approximately equal to those of all thrift institutions. However, the Commission currently utilizes a staff of about 200 individuals to oversee these investment companies. By contrast, the Office of Thrift Supervision has a staff of nearly 3,700 and an annual operating budget of over $300 million to oversee a similarly-sized group of institutions.

- monitor the proprietary risks and exposures assumed by market participants, including major U.S. broker-dealer firms, investment companies, and investment advisers at home and abroad;
- evaluate automated systems to determine the effectiveness of self-regulatory organizations' trading, surveillance, and transaction settlement procedures and programs;
- resolve conflicts and overlaps between the regulatory systems of the U.S. and other nations; and
- broaden the coverage of the SEC's examination program regarding investment companies and advisers and self-regulatory organizations and broker-dealer firms.

The work on these and other initiatives as described in the 1991 budget will require significant staff resources. The increases are necessary in order to respond appropriately to investor concerns about the markets. In the long run, they also save far greater potential losses and costs, as the Drexel matter demonstrates.

Law Enforcement Activity

The SEC is a law enforcement agency and must continue its vigilant protection of investors by detecting and prosecuting fraudulent activity in the marketplace. The Commission has, over the years, maintained a balance in the types of cases instituted in its enforcement program. Although there has been a great deal of publicity in recent years about the activities of industry professionals engaged in insider trading and reporting violations, many less publicized cases also have been actively pursued. These include cases involving regulated entities, securities offerings, and financial disclosures.

For 1991 the Commission will place renewed emphasis on protecting small investors and on restoring their confidence in the U.S. securities markets. State securities administrators have testified before Congress that small investors lose an estimated $2 billion a year as a result of fraud in the penny stock market. 2/ This is an area where the Commission recently has made significant strides. The Commission's Penny Stock Task Force has generated an increasing number of cases in this area. Other cases are being pursued that directly affect small investors, including those involving regulated entities, market manipulation, and securities offering fraud. The recent criminal indictment of Meyer Blinder and others on securities fraud, wire fraud, and RICO counts, among others, was largely the result of the Commission's determined leadership in the fight to control penny stock fraud.

2/ The Commission has not independently verified the accuracy of this figure.

Another focus of enforcement resources involves the problems of depository institutions, including banks and the savings and loan industry. The Commission announced formation of a new bank and thrift fraud unit in late December, 1989, with staff from the Division of Enforcement, supplemented by a similar unit in the Division of Corporation Finance. The combined efforts of these units will be dedicated to investigating and prosecuting securities fraud and other securities law violations by financial institutions. In addition to investigating financial fraud encompassing false financial statements and misleading disclosures, the traditional issues in such cases, the new enforcement unit also will examine sales by financial institutions of their own or affiliates' securities.

Timely enforcement actions by the SEC against insured institutions, or their holding companies or affiliates, that may be engaged in financial fraud can have a secondary effect of avoiding or reducing prospective budget costs to taxpayers. The Commission's current investigation of American Continental Corporation and its subsidiary, Lincoln Savings and Loan of California, is an example of a complex investigation of potential financial fraud that the Commission must have sufficient resources to pursue vigorously.

Globalization

Internationalization of the securities markets presents tremendous opportunities for the nation, as well as potential risks. The United States has an enormous stake in the development of international policies concerning clearance and settlement systems, disclosure policies, accounting practices, information exchange, law enforcement, and broker-dealer capital and registration standards. These and other complicated issues related to developing a multinational regulatory structure for securities markets and market participants world-wide will require active leadership by the Commission. For example, as European markets become more unified in the years before and after 1992, the SEC must have the capability to participate actively in dialogue with our European counterparts to ensure that U.S. institutions are treated fairly in this process, and that U.S. financial firms remain competitive in the global market.

In December, 1989, the Office of International Affairs was created to coordinate and facilitate the Commission's international activities. This office will take the lead in negotiating mutual information sharing agreements with foreign authorities throughout the 1990s. In addition to developing methods to obtain information abroad, the office will coordinate the Commission's efforts as it addresses other international issues such as effecting service of process abroad using various international conventions, freezing assets located abroad, and enforcing judgments against foreign parties obtained by the Commission in the United States.

One means for the Commission to help achieve greater safety in the global securities markets is through active involvement in the International Organization of Securities Commissions (IOSCO). IOSCO is the only multilateral organization of the world's securities regulatory authorities. The United States is chairing the IOSCO Executive Committee during 1990 and will be hosting the 16th annual IOSCO conference in the fall of 1991. This conference is a major forum for the development of supervisory policies affecting every world securities market. To provide its share of the costs as conference host, the SEC has included $100,000 in its 1991 budget for such items as simultaneous translation, facilities, and printing. Similar costs are borne annually by the host nation, such as Italy in 1989 and Chile in 1990.

The SEC is already deeply involved in global matters. However, the additional resources included in the agency's 1991 request are needed to undertake new initiatives in the international arena. International issues affect all the agency's programs, but the Commission lacks sufficient resources to undertake all of them. Significant international priorities include:

- increasing the Commission's efforts to improve and harmonize international accounting and auditing standards;
- removing barriers to transnational capital formation, the extension of shareholder rights, and investor protection abroad;
- developing procedures with the European Community (EC) to ensure open opportunities for all types of U.S. securities firms and products to compete in the E.C. market;
- developing common capital standards for broker-dealers and other institutions engaged in the securities business;
- examining intermarket trading links and the surveillance agreements accompanying such links; and
- preventing penny stock manipulation and insider trading through foreign entities.

Agency Request

The 1991 budget represents an increase of $23.7 million over the agency's 1990 appropriation. The increase includes $11.7 million for mandatory personnel costs and other nondiscretionary increases. An additional $12 million will be used to fund program increases, including 147 positions necessary to carry out the Commission's workload, an increase of 6% over the

1990 level. The 147 position increase will be allocated to the SEC's programs as follows:

63 for Prevention and Suppression of Fraud;
33 for Regulation of Securities Markets;
25 for Investment Management Regulation;
14 for Full Disclosure and EDGAR Management;
10 for Legal Services and Economic Research; and
2 for Program Direction.

Other program funds are included to provide the Commission with essential EDGAR support and data processing resources necessary to support new enforcement initiatives, international data linkages, integrated office automation, and increased regulatory databases. The request for additional hardware, software, and contract support for access to outside databases will be critical to success in these efforts. These increases represent the minimum staff levels necessary to carry out the statutory obligations given the Commission by the Congress.

The Commission's 1990 appropriation increase began to address the imbalance between the SEC's resources and its responsibilities. The Commission greatly appreciates the Congressional support it received for the 1990 appropriation. The 1991 budget request is based upon the 1990 appropriation, and it represents another vital step toward enabling the Commission to protect investors and to help reduce the cost of capital formation.

Impact of Reduced Resource Levels

During the past few years, the Commission has been able to perform its regulatory tasks in an exemplary fashion. If its resources are not increased, it cannot provide assurances that its successes in protecting the public and overseeing the markets can be sustained. The SEC needs the meaningful increases in budget and staffing that are contained in the President's 1991 budget. The importance of adequate oversight of the securities markets has obviously been heightened by the market events since October, 1989.

Should appropriations be enacted at a level substantially below the request, the likely result would be that only those efforts absolutely required by the various securities laws would be supported. Only limited resources would be available for priority initiatives. In terms of programmatic impacts, the Commission would be forced to:

- seriously curtail the penny stock and other enforcement initiatives, removing the prophylactic effect against major investor fraud;

- substantially reduce the number of broker-dealer and investment company examinations, resulting in serious risks to investors and limited deterrence for abusive practices, misconduct, and violations of the securities laws;
- severely reduce the number of periodic reports by securities issuers that would be reviewed, including annual, quarterly and current reports, thereby increasing the potential for financial fraud that may impact negatively on investor protection; and
- potentially compromise the leadership role of the United States in the area of international securities regulation or cause trade-offs in other program areas such as law enforcement.

In addition to the budget savings from effective financial regulation, the Commission's 1991 budget request should be considered in relation to the agency's production of revenues substantially in excess of its budget. In each of the last five years, the filing fees collected by the Commission have significantly exceeded its appropriations. For example, in 1989, the agency's collections of $213.8 million exceeded the Commission's $142.6 million budget by $71.2 million. Current estimates for 1990 indicate approximately $236.6 million in collections and approximately $166.6 million in expenditures for a surplus of $70 million. In 1991, fee collections are expected to reach $243.8 million.

I look forward to working closely with you as the 1991 budget is developed. I am pleased to answer any questions that you may have.

1990 SEQUESTRATION

Mr. **Early**. I appreciate your statement, Mr. Breeden, and we want to welcome you to the Committee. The Committee does try to do the right thing.

How much was sequestered from your 1990 appropriation, and what was the impact of that reduction on your activities?

Mr. **Breeden**. The sequestration was $2.1 million, just a hair under that, and that amount was spread across, as we are required to do, each of our program activities. That translated to a reduction of 26 full time equivalent staff positions.

Mr. **Early**. That doesn't seem to me to be a savings, Mr. Breeden, since you said in your statement that your agency generates more revenue than it expends for its operating budget. In reducing your funds by $2.1 million, I wonder what effect that has on what the agency would have brought in in income, and what the Commission cannot do in protecting the investors and the American public?

Mr. **Breeden**. I don't think the 26 FTE reduction would have an immediate impact or a likely impact on the revenues that we generate, Congressman Early, because the fee revenues are purely tied to transactions and the rate of volume on the exchanges, the rate of new public offerings, and so on. Obviously, if we had a significant reduction in the number of enforcement personnel, it could have a serious impact on our enforcement efforts, some of which do result in fines that are recovered by the Treasury, but those are not computed in our fee receipt calculation.

SEC FINING AUTHORITY

Mr. **Early**. Yes, they are not fees, but they are income as far as the bottom line is concerned. Does the SEC have a RICO type of statute other than the fines, that it applies?

Mr. **Breeden**. Well, we do have a statute, the Insider Trading Sanctions Act, that allows us to recover triple penalties from persons that have engaged in insider trading. In that sense we have something somewhat analogous to RICO, although there are enormous differences, technical differences, between those two statutes.

Outside the insider trading area, where we have the fining capability, we don't have the ability—although we are seeking it from Congress—to seek civil fines. We have the ability to get what we call disgorgement for investors, where a wrongdoer will have to put monies into a fund that defrauded investors can recover from. Those monies do not go to the Treasury, they do not go into the budget receipts.

EFFECT OF STAFFING ON ENFORCEMENT ACTIVITIES

Mr. **Early**. But they still go for the same purpose, I guess. Your statement cites three goals. The second one is that the SEC will emphasize cases involving penny stock fraud, actions by savings and loans and other financial institutions. As you know, this S&L problem is going to cost every American taxpayer money.

Let me ask you, if you had more people, would the Commission have been able to detect that more quickly? It would have saved a lot—a lot—of money.

Mr. **Breeden**. We believe that the personnel level that Congress approved for us in 1990, which was a significant increase for us, was a necessary step, that we needed that increase, and we are working very hard now to try and fill those positions. I didn't like to lose the 26 FTE that we lost to sequestration; however, measured in light of the fact that it still left us with a significant personnel increase, it didn't result in any significant diminution of staff activity.

Therefore, I don't think it was something that, while we would perhaps prefer that it hadn't happened, was intolerable within the operation of our program. It would be very different if we were taking that out of a flat, not growing, staff population. But the 1990 appropriation and the staffing levels that we obtained from the committee are extremely important in helping us do a better job combatting fraud.

Frankly, the reason we are requesting an increase again this year is that we think the job isn't over, and that there is still a need for additional personnel to help us be better able to detect both fraud and risks to the financial system through other areas of regulation.

Mr. **Early**. And that is the point of my question. That's why I see that 26 FTE cut back frustrating, I think we have to look at the whole picture. Didn't the Justice Department use the SEC to some degree, in connection with the fraud charges brought against Michael Milken? I mean, that is the bottom line in just protecting everybody, isn't it?

Mr. **Breeden**. Yes, sir, I think we are very important in protecting American investors and the American population. There are at least 56 million Americans who, directly or indirectly, own stock in the United States, and I think it is our job to protect each and every one of them.

Mr. **Early**. I am sure you think that, but in the case of the S&L problem, every taxpayer, whether he owns stock or not, is going to pay for it.

Mr. **Breeden**. Yes, sir. That is also true, that a failure of financial regulation will certainly affect even those who are not direct participants in the market.

BUDGET REQUEST TO OMB

Mr. **Early**. What was your 1991 budget request to OMB? What reductions were made in that request, and what will be the impact of those reductions on the activities?

Mr. **Breeden**. We sought $212.3 million and received $192.4 million.

Mr. **Early**. What makes up that $20 million reduction.

Mr. **Breeden**. There were a number of areas in which—and I would be happy to provide that for the record, all the details——

Mr. **Early**. For the record, provide the specifics of the $20 million reduction. Would you give us a summary of that now.

Mr. **Breeden**. Well, part of it was a reduced rate of increase in staff. The Commission had proposed a somewhat more ambitious buildup than OMB authorized, although there again the request approved by OMB is for 147 new positions, and that is something that we think is very important.

There were also some funds in the data processing area, there were some funds in inflation adjustments, there were some savings that OMB imputed to us due to the installation of the FTS-2000 system that we don't think will result, for reasons relating to the degree to which we use the system for data rather than voice transitions. There was no single factor, although personnel probably is the biggest chunk of the difference.

Mr. EARLY. So you will provide more detail for the record.

[CLERK'S NOTE.—The information is provided in the response to the questions for the record.]

STATUS OF AUTHORIZING LEGISLATION

What is the status of your authorizing legislation for FY 1991?

Mr. BREEDEN. We are hoping that there will be action here in the House of Representatives in the near future. Our authorizing legislation has passed the Senate, and we are hoping that we can get to conference with authorizing legislation in the near future.

FEE LEGISLATION

Mr. EARLY. Last year the Committee included a provision in the appropriations language which increased certain fees that the Commission charges for fiscal year 1990. The authorizing committee had prepared legislation which would make these increases permanent. What is the status of that legislation?

Mr. BREEDEN. The legislation affecting the permanent increase in fees is part of the authorization process, and, here in the House, Chairman Dingell has been seeking to enact what is described as self-funding. It is really a form of self-funding that would involve fees going into the U.S. Treasury—there would still be appropriations by the Congress for the Commission, but the fee stream would be dedicated more directly to our expenditures, so the whole question of what the fees would be and what level they would be at is wrapped up in that authorization bill.

Mr. EARLY. And is that moving to your satisfaction?

Mr. BREEDEN. Well, I will be most satisfied when it gets enacted. [Laughter.]

ADJUSTMENTS TO BASE

Mr. EARLY. You are proposing a net increase of $13,756,000 in adjustments to base and built-in changes. Will this amount cover all your mandatory increases?

Mr. BREEDEN. I think it will cover everything, except that it will only fund pay increases at a 50 percent absorption rate.

Mr. EARLY. I see you are projecting a savings of $120,000 for inflation and contractual price changes. How can an adjustment for inflation and contractual price changes be a negative figure?

Mr. BREEDEN. That gets to the question of this—as I understand it, sir—as to the possible savings on this FTS system and the systems that are going into place. The total does have inflation adjustments built into it for a number of our procurements, ongoing procurements.

Then we have this FTS system coming into effect, and there has been some dispute, I guess I would say, or difference of opinion as to the cost savings impact that that would have for the Commission. Our budget experts came up with this number as the net result. It really is composed of—there are a couple of items, higher rent that is imposed on us by GSA and an additional anticipated increase in some of our other employee travel and transportation expenses, less some savings that are anticipated from the FTS system, and the anticipated savings, in fact, more than offset the expected increases.

Mr. EARLY. For the record, provide a little fuller description of that.

Mr. BREEDEN. Certainly.

[CLERK'S NOTE.—The information is provided in the response to the questions for the record.]

Mr. EARLY. I have many, many more questions, but I am going to yield to Mr. Dwyer at this time.

LEVERAGED BUYOUTS WITH JUNK BONDS

Mr. DWYER. Thank you, Mr. Chairman.

Leveraged buyouts with the junk bonds, is that era behind us, do you think?

Mr. BREEDEN. Well, certainly the level of activity in the marketplace in recent months is dramatically lower than it had been in previous time periods.

Mr. DWYER. I read someplace where the market activity and the value of a lot of those junk bonds is down, not only because they can't meet some of the interest payments, but because there was some fudging done when they were issuing the bonds. They just didn't tell everything that they should have told. Now this is from a newspaper account, but do you expect this to rear its ugly head and give you all sorts of problems?

Mr. BREEDEN. Well, Congressman Dwyer, whether it is the issuance of an investment-grade security or a below investment-grade security, we are always concerned about the adequacy of disclosure, the financial information provided to investors. These transactions, some of these transactions that involve mergers and recapitalizations, have very complicated financial disclosures. We try and review them very carefully, and will expect to continue to look very carefully at the disclosures that were made in light of developments as they occur.

Mr. DWYER. I guess what I read was, they expected some bondholder suits or class-action suits against the issuers, because some of the information wasn't clearly stated—that is, the real estate involved and the condition of the real estate and things of that nature. That is the impression I got from the newspaper article. If that were the case, would this fall under your jurisdiction?

Mr. BREEDEN. Well, we don't actually handle suits where a——

Mr. DWYER. I understand.

Mr. BREEDEN. As you know, under the securities laws, investors in a number of areas have a private right of action where they can bring an action directly against the issuer of securities, the underwriters or others who may have participated. The Commission doesn't join in those actions, but we do carefully take a look at litigation of that kind because we have, separate and apart from any private suit, oversight responsibility for the conduct of lawyers and accountants and others who may have been involved in those transactions. So, we do try and monitor it extremely carefully.

In fact, if our 1991 budget request is approved, one-third of all the personnel in the Commission will be in our Enforcement Program, so we are very much of a law enforcement agency, oriented toward making sure that investors—we believe investors are entitled to rely on the disclosures they get, that those disclosures will be accurate, and if they prove not to have been accurate, that action will follow.

OFFICE OF INTERNATIONAL AFFAIRS

Mr. DWYER. Your Office of International Affairs you mention in your statement, that is kind of interesting. What do you anticipate that that will be—how many people are involved in that office at the present time, and what type of growth do you anticipate in that area?

Mr. BREEDEN. Well, the Office itself is quite small. It initially was formed by taking five staff members that were already with the Commission in the Enforcement Division and transferring them into a separate organization. We plan to supplement those with some additional hiring, but I would not want to have you think that that group, even if we get to say 20 staff members in that particular group, is the totality of our efforts in the international area, because each of our major operating divisions—Corporation Finance, Market Regulation, Enforcement, and Investment Management—has significant international activities as well. We have not tried to take international activities away from the operating divisions, but rather we wanted one office that would particularly focus on negotiating information exchange agreements and other formal relationships in foreign jurisdictions.

Mr. DWYER. That is really, then, the primary responsibility of that office, to——

Mr. BREEDEN. Yes. We now have agreements with, I believe it is eight foreign jurisdictions, that allow us to get their assistance in subpoenaing witnesses and compelling testimony when we are conducting an investigation. The reality of today's marketplace is that it is as easy to be engaged in insider trading in the United States from London or Geneva or Paris or Tokyo, as it is to do so from Connecticut or California, so that if we don't have formal relationships under which we can get the assistance in foreign jurisdictions, our investigations in many cases won't be nearly as likely to be successful.

CFTC JURISDICTION

Mr. DWYER. Alan Greenspan made an announcement that he favored transferring the jurisdiction of the Commodity Futures Trading Commission to the SEC. What is your opinion of that? If this were to happen, would you be able to handle that responsibility?

Mr. BREEDEN. Oh, yes, sir. I am quite sure we could handle it. Actually——

Mr. **Dwyer**. That is a pretty nasty pit out there.

Mr. **Breeden**. Well, we have some pit bulls in our——

Mr. **Dwyer**. Are there some junkyard dogs——

Mr. **Breeden** [continuing]. In our Enforcement Division, and I think they would be up to that job. [Laughter.]

Chairman Greenspan's remarks focused not on transferring all commodities jurisdiction, but just the jurisdiction over stock index futures.

Mr. **Dwyer**. Yes.

Mr. **Breeden**. As you know, that is a much narrower slice. We are the only country in the world with securities markets that divide the regulation of stocks from derivative contracts on stocks. We are the only one that makes this division, and I think Chairman Greenspan, along with Secretary Brady and myself, believes that our overall competitiveness in the world economy, as well as our ability to regulate those markets, would be improved if we eliminated that fragmentation in our market.

Mr. **Dwyer**. You are very creative in finding new ways to gamble.

SAVINGS AND LOAN ACTIVITIES

Now just how deeply did you get into the Savings and Loan activities? Only when it was a capital stock holding company involved?

Mr. **Breeden**. Yes. Our jurisdiction is very limited in that area. We have authority—and it is really an historic accident that the system is divided in this way—we have authority over securities that are issued by a bank holding company or by an S&L holding company, but not if the securities are issued by an S&L or a bank that doesn't have a holding company.

Obviously there is absolutely no difference from an investor's point of view. They have invested in an entity in the holding company area, where there may not even be an operating company. The entity just happens to own 100 percent of the shares of the operating bank or S&L.

Really, almost every group that has looked at that system, going back as far as the Bush Task Force in the mid-or early 1980s, has recommended that all securities jurisdiction over both S&Ls and banks be transferred to the SEC along with the holding companies. But, at present our jurisdiction is limited to securities issued by S&L holding companies, and S&L holding companies are relatively uncommon.

Banks are the dominant form of doing business in banking, almost 8,000 of the banks in the United States are part of holding companies. But, on the S&L side it was more common for a variety of reasons to have an S&L with downstream subsidiaries rather than an upstream holding company, so that our jurisdiction there is probably 200 companies, 250 companies out of 3,000. So it is a fairly narrow slice of the industry, but it does include some of the bigger companies and we have had some significant cases in that area.

Certainly one of the largest problem cases—and I recognize that that is a difficult title to win in that industry given the problems it has experienced—but Financial Corporation of America, the old American Savings in California, was one of the bigger problems. It was about a $30 billion institution, and really the Commission was very active in bringing an enforcement action against it for certain accounting practices that it was following. So we have had some big cases in that area, but our slice of the jurisdiction has really been very small.

ADEQUACY OF SEC FUNDING

Mr. DWYER. Given the size and consequence of your responsibilities, probably one of the most important ones necessary for the success of our economic system, have you got enough money to do the job?

Mr. BREEDEN. Congressman, I am very comfortable with, as I indicated earlier, the appropriation we received for 1990. I think there were some badly needed increases that we got, and we really appreciate the help of this committee. I know as the budget process got down to the end there was considerable effort that went into achieving that result for us, and we very much appreciate it. I am very satisfied with the 1991 request.

Mr. DWYER. Well, I think most people, including myself, have a kind of funny feeling in our bones that there is a lot more mischief out there, and that is really why I asked the question.

Mr. BREEDEN. I guess, you know, certainly there are areas in which I could think of ways to spend additional funds, but one of the problems we have—and I think it is important—is that there is a real limit to the speed at which we can grow, if we are going to grow with good people and good quality control. I would rather have steady increases for each of three or four years than a couple of huge jumps. It would be much more difficult for us to absorb that many new people at one time, to recruit them and hire them.

Mr. DWYER. Oh, sure.

IMPACT OF FEDERAL PAY STANDARDS

Mr. BREEDEN. One of the terribly serious problems we have, frankly, is the fact that the Commission is under Federal pay standards while all of our sister financial agencies except the CFTC—the FDIC, the Federal Reserve, the Comptroller of the Currency, the OTS, the Federal Housing Finance Board, and the National Credit Union Administration are all freed from the OPM's salary guidelines. So we are competing for people who want to be in Federal service and who are interested in financial services and a career in regulation. We are competing against agencies that can often nearly double the amount of money at senior levels that we can pay.

I am very worried, if we don't address that problem, that not only will we continue to have an obvious problem in losing people to the private sector, but we can't even be competitive with the National Credit Union Administration—with all due respect, and I don't begrudge them the salary levels that they are able to pay or the FDIC is able to pay. However, until we get that problem solved, you know, staffing at a rapid pace is going to be tough.

Mr. **Dwyer**. It probably makes little sense to give you the job openings but not the weapons to go out and get the right people. Thank you.

Mr. Rogers.

Mr. **Rogers**. Thank you, Mr. Chairman.

Chairman Breeden, good to see you and your staff with you today.

PENNY STOCK FRAUD

You cited in your budget request the more vigorous enforcement against activities that harm the individual investor, particularly the penny stock trading area. Is fraudulent activity increasing in that area?

Mr. **Breeden**. It is really difficult to say. We know how much we see. We are never sure how much we don't see. I mean, that is always a problem in law enforcement activity. We think that the problem is very serious. There have been estimates that the State regulators have testified about to Congress that there is as much as $2 billion a year in losses to investors by penny stock fraud. We don't know whether that number is accurate, whether it is on a smaller level or whether it is larger, but we think it is a significant problem.

TYPICAL INVESTIGATION

Mr. **Rogers**. How does the typical investigation commence? Is it a customer complaint or a market observation or what?

Mr. **Breeden**. Well, it can happen in a variety of ways. We do in fact get customer complaints, either directly to the Commission or to the NASD or one of the other applicable self-regulatory organizations. We also go out and do inspections of registered broker-dealers.

In fact, we have a new regulation called the "cold calling" rule that is designed to prevent—to put some safeguards on the process by which some boiler rooms operate with high-pressure telephone sales tactics. There are recordkeeping requirements under that regulation, and we can actually go out to do an inspection and demand to see their records of their sales practices, and then check the records against selected customers, call up the customers and ask them, did they call in or was it an unsolicited call?

So it is a mix of both customer complaints and our own investigative activities. We also have participated, it has been publicly announced, in some sting operations with the FBI that have been very, very successful. We have worked very actively with a number of different state regulators. In some states we have been successful in getting the utilities to put in their monthly statements that they mail out, flyers warning their customers what to look for and what to do if they get a high-pressure sales call, who they can call to check out the broker and so on.

So we have tried to pursue investigations, follow-ups on complaints, public education and working with other law enforcement organizations. We also do a fair amount of training for the local Attorneys General and District Attorneys and so on.

It really is a difficult problem to stop because these are locally-based frauds. You can go in, set up a telephone boiler room operation very inexpensively and very quickly. They can operate, rip off a whole bunch of people, and then leave town, and we have to try and catch them before they complete that activity or track them down afterward, which can be very difficult.

ARE CURRENT LAWS SATISFACTORY

Mr. ROGERS. Do you need any more laws on the books or do you have plenty now? You know there are several bills filed simply to eliminate certain kinds of offerings, such as a blind pool. Do we need more?

Mr. BREEDEN. The ultimate solution may certainly involve some additional regulations, such as our "cold calling" rule, where we find a particular practice that we need to adjust. We have to be very careful. We have taken action against cold calling where the securities are not listed on an exchange. There is some indication now that some of these offerors may be trying to get some of these fraudulent securities listed on either the securities exchanges or NASDAQ, and we have to be very careful to make sure the listing standards are adequately enforced.

At this point we are seeking some major enhancements to our enforcement authority, across the board, not targeted solely to penny stock but applicable to a wide variety of violations where we think that that legislation would be a major assistance in dealing with penny stock.

For example, we have the authority now, if we find a broker-dealer firm that has violated regulations, whether it is cold-calling rules or other requirements, to put that firm out of business if its conduct was egregious enough, or to censure the firm or the individuals who may have conducted offenses. But we don't have authority, outside of insider trading violations, to fine them.

This is an area of activity where these are not crimes of passion; they are economic crimes. The ability to make these firms understand that not only will they be faced with criminal prosecution, but that if we catch them we could come in and take away their gains with heavy fines, is something that we think would be particularly useful in the penny stock area.

GLOBALIZATION

Mr. ROGERS. Now on the international affairs office that you opened up and the globalization issue in general, how does our system of market activity and market regulation compare with our major player partners internationally?

Mr. BREEDEN. We could spend a couple of days on that one.

Mr. ROGERS. A couple of sentences, please. [Laughter.]

Mr. BREEDEN. Yes. Well, we used to be far and away the largest market in the world, in terms of equity market capitalization. We are now trading first place back and forth with the Japanese. Last January they had grown substantially larger than us in terms of market value, and we are now about even given the recent developments in their marketplace.

The U.S. and Japan both have a similar structure, in that we have the Glass-Stegall Act and they have what is known as Article 65 that was put in place after World War II to do the same thing, separate commercial banks and investment banks. In Germany and in most of continental Europe they do not have any such restrictions and barriers, and a system known as universal banking is often followed, where the securities activities are conducted inside a bank. In the U.K. they don't have the formal restrictions of Glass-Stegall or Article 65, but it has been typical to have specialized securities firms rather than banks be the dominant form of competition.

So in a sense you could say that the U.S. market, the U.K. market and Japan all have similar structures in that respect. Our individual regulatory systems differ in some areas, and yet there are certain common denominators, the capital rules and protections for investors that are similar among all the countries.

INTERNATIONAL REGULATORY STRUCTURE

Mr. **Rogers**. Are we going to have to have, one of these days, some major international umbrella regulatory structure to control or regulate, to some extent at least, the international flow and the globalization that obviously has taken place?

Mr. **Breeden**. Well, if you mean in the sense of will the U.N. or some agency in Brussels ever take over the job of protecting American investors, I am not sure the answer to that is yes, certainly not for the foreseeable future, and it may not be either necessary or desirable. But clearly we live in an international market, and for us to do the job of protecting investors in the United States as well as to promote capital formation at low cost here, it requires us to work very actively with our colleagues in Japan and the United Kingdom and France and other major markets.

So what we have been attempting to do—and frankly I think we securities regulators are a bit behind our colleagues on the banking side, who for the last 10 years have been working very actively in a cooperative process headquartered in Basle, Switzerland—is to develop common capital standards and common regulations. I think securities regulators got a late start on that, but we are now working very actively with each of our major sister agencies to develop common standards, common standards for accounting and auditing. We are trying to get the accounting and auditing standards closer together, common prospectus standards and so on, and of course the enforcement agreements that we spoke about earlier. I think we can do a great deal by creating multinational regulation in which each country has its own domestic agency, but where those agencies work very closely together in setting global standards.

Mr. **Rogers**. But there are some very shrewd people that can needle their way in and between the rip and rap of international or national regulations and manipulate. I guess one of the classic examples of that is the BAT takeover attempt by Sir James Goldsmith. You may recollect our conversation about that, and to me it raises very fundamental issues and problems for us, for Americans, in operating in multinational markets. To me it has to be one of the classic proposals to evade U.S. regulation or supervision, enticing American investors into a foreign proposal.

It seems to me one of the chief challenges that you face is how to facilitate or encourage necessary and I guess inevitable transactions and at the same time protect the U.S. investor interests which were at risk in the BAT deal. I wonder what kind of steps are you taking to make sure that U.S. shareholders are not excluded from these kinds of tender offers in the future?

Mr. **Breeden**. Well, Congressman Rogers, that is a very good question. I think it is a significant risk that we not have U.S. shareholders excluded from transactions solely on the basis of their U.S. citizenship, transactions that other investors in the same company are able to participate in.

We have been taking, since I assumed the chairmanship, a number of actions in that area. One type of action is to try and reduce some of the unnecessary barriers to people making the offers in the United States. There are a number of areas where there may be technical inconsistencies between our statutes and those of a foreign jurisdiction.

For example, in some procedural respects the Williams Act in the United States and the takeover procedures utilized in the United Kingdom and applied by the Takeover Panel are exactly opposite. United States shareholders have withdrawal rights for shares that they have tendered until a certain period of time. Shareholders in the United Kingdom don't have withdrawal rights until a certain period of time. Yet both countries seek to protect investors, both seek very similar objectives, but the procedures used are somewhat different.

We had, after the BAT transaction in the fall, a transaction in which Ford Motor Company wanted to bid for Jaguar Motors, and there were significant blocks of shareholders in both the U.S. and the U.K. In that case we got on the phone with the Takeover Panel and worked out an understanding whereby the U.S. laws would apply to the shareholders here and the U.K. laws would apply to the shareholders in the U.K. Though each set of laws purports to apply to everybody in the transaction, we worked out a way of letting the deal go forward on both sides of the Atlantic, rather than making Ford pick whether they wanted to do an offer in the U.K. but not in the U.S. or vice versa.

Similarly, we had an offer recently for a Swedish company being made by two other Swedish companies, one of which was Volvo, which is a registered company under the 1934 Act here in the United States, and both the target and Volvo had significant groups of American shareholders. We were able to work with Volvo to remove some of the accounting and timing hurdles that had initially caused them not to extend the offer to the U.S. shareholders. I am happy to say that we were successful in encouraging them to extend that offer to the U.S. shareholders of the target.

So part of the job is to make it clear that there are no insurmountable barriers. There is no reason people can't come into the United States and deal with our regulatory system. The system can be made flexible so that we get the job done but we don't impose unnecessary costs.

The other part of the job is, once we have made it clear that we are not going to erect unnecessary and arbitrary barriers and unnecessary costs, that we would hope that some of the foreign regulators will be less tolerant of offers that exclude Americans on the basis of their citizenship.

I have personally talked with the head of the Takeover Panel, the head of the Department of Trade and Industry and the head of the Securities and Investment Board in the United Kingdom, and made crystal clear to them our view that we would not allow U.K. shareholders to be carved out of an offer by an American company under the Williams Act. We have an "all holders" rule that says the offers have to be made to all the shareholders, and we would protect U.K. shareholders if someone tried to carve them out, and we would hope they would follow a reciprocal policy.

I think we are making a good deal of progress in discussing those issues directly with our foreign counterparts.

Mr. **Rogers**. Well, you are very sensitive then to this problem, obviously, and keeping an eye on every move that might enter that arena, are you?

Mr. **Breeden**. Well, we are trying. There are limits to our jurisdiction, and we can't always make foreign companies come into the U.S. market if they are not here. Absent someone lending us the Air Force or the Army, we can't always get across our point of view or make it stick in foreign jurisdictions. But, I think we are seeing a great deal of cooperation around the world among the regulators, recognizing that this is a world market and that we have to work together to make transactions possible, not to erect barriers to keep them from happening.

INTERNATIONAL LEGISLATION

Mr. **Rogers**. Well, I think you have only seen the tip of the iceberg. Obviously, with globalization occurring, it is going to be a major, major factor, more so every day. Do you see the need for more legislation to give you, arm you with more ammunition or power or authority to deal with a problem that obviously is going to become greater?

Mr. **Breeden**. Well, at the present time I can't think of anything targeted toward this specific problem. The framework of the statute we have is reasonably good.

We are seeking enforcement legislation and we also have pending, both before the floor of the House and the floor of the Senate, a bill called the Market Reform Act, which would give us an ability to look into the financial condition of the parent firms of broker-dealers, both of U.S. firms and of foreign broker-dealers operating here in the U.S. That legislation is especially critical to our ability to maintain safety and soundness and to help promote a stable securities market. I would rate that legislation as the highest priority in terms of enabling us to deal on an informed basis both with domestic risks and with risks that may emanate from the international market.

PUBLIC UTILITY HOLDING COMPANY ACT

Mr. **Rogers**. Well, finally in my segment here let me quickly ask you about the Public Utility Holding Company Act. Could you update us on the level of backlog in those filings?

Mr. **Breeden**. If I could be allowed to correct myself for the record, I can give you approximately where we are, and will give you the official tally quite promptly.

Mr. **Rogers**. That would be fine.

Mr. **Breeden**. Congress, as you know, suggested that we hire eight additional staff in that area. We have five on board. We have two more who have accepted offers and will be on board by the end of this month, and we have a number of offers outstanding, so we have in fact staffed up as Congress suggested.

The backlog was originally projected to be around 150 filings by January of next year. It is down to around 65 to 70 right now, and we hope it will be down significantly below that by the end of the year. So, I think the backlog picture by the end of the year will be a dramatic improvement.

Mr. **Rogers**. And what are you requesting in 1991 in that area, compared to 1990?

Mr. **Breeden**. I think we are expecting that the additional staff pending and on-board, once they get up to speed here, and together with some rules that we are pursuing, will simplify some of these filings and eliminate the need for some of them. We recently put into effect something called Rule 52 that eliminated the need for certain repetitive filings that, quite frankly, from my reading of the statute, Congress intended us to eliminate 55 years ago. We at least are getting around to it now, and we are looking at some other actions that will help reduce the number or complexity of some of the filings. That, plus the new staff we have already gotten, once they are on board and trained, we think will take care of that problem.

Mr. **Rogers**. Well, the backlog was getting heavy, especially in the so-called complex filings, those filings that raised or posed new technical issues that required full Commission attention. Are we getting rid of those so-called complex filings, the backlog?

Mr. **Breeden**. I don't think, absent repealing the statute or changes in the marketplace that we would have any control over, that we can eliminate complex filings.

Mr. **Rogers**. No, no, I don't mean to eliminate. I don't mean to eliminate. I mean to——

Mr. **Breeden**. You mean the backlog, the number of——

Mr. **Rogers** [continuing]. Eliminate the backlog, process the filings quicker.

Mr. **Breeden**. I would be happy, if you would allow me to break down the backlog among the complex filings. Certainly I can assure you that we have every intention—that this is a problem, has been a problem recognized by the industry. It has been recognized by the Congress, and you gave us the resources, and we intend to do the job.

Mr. **Rogers**. Okay. Thank you very much.

Thank you, Mr. Chairman.

Mr. **Early**. Chairman Smith.

Mr. **Smith**. Is your budget based on an assumption that there will be no change in your jurisdiction in 1991?

Mr. **Breeden**. No change in terms of——

Mr. **Smith**. In terms of the CFTC.

Mr. **Breeden**. Yes, it is based on the assumption of our current jurisdiction.

Mr. **Smith**. As you are aware, the CFTC law has a sunset provision, so something is going to have to be done this year one way or the other. What can you tell us? What is the latest on your dealing with this merger or amendment to the Shad-Johnson Agreement or whatever it is you want to do.

Mr. **Breeden**. Mr. Chairman, the latest was testimony we had last Thursday before the Senate Subcommittee on Securities. The four members of the Presidential Working Group on Financial Markets—Chairman Gramm, Bob Glauber, Under Secretary of the Treasury for Finance, Alan Greenspan and I—testified on this subject.

Three of the four of us recommended—including Chairman Greenspan who indicated that it was a close call and he had some sentiments in both directions—on the side of transferring jurisdiction over stock index futures from the CFTC to the SEC. That has been the position that Secretary Brady has said was the minimum that he believed should occur, although he has held open the possibility of either transferring all financial futures or merging the two agencies.

At the SEC we have been very concerned, and quite frankly I have been extremely concerned, with some of the problems that the current structure is causing, particularly the degree to which it inhibits new products from coming to the market. There is something in the Commodity Exchange Act called the exclusivity clause that says if something is a future then it is exclusively traded in a Board of Trade and regulated by the CFTC.

Courts have now interpreted that in a way that essentially says if there is some element of a future in a product, it has to be regulated over there. Well, there is not a single securities product I know of that doesn't have some element of futures to it. The trades don't settle for 5 days. I don't know of an insurance contract that doesn't have futurity to it. You have to die or have your house burn down or some other future event has to happen before the insurance obligation in the classic sense arises. Currency swaps and other banking products have futurity to them.

So the interpretation that has been given now to this clause is spawning significant litigation. When a new product comes out, people have to sit and say, "Well, is it 100 percent a security or is it only 99 percent a security?" If it is 100 percent, it trades in one place; if it is 99 percent it goes and trades in another.

We are the only country in the world where you have to litigate over that for 3 years and pay your lawyers a couple of million dollars in fees before the new product can get out of the courthouse and into the marketplace. That is a very serious problem, and we think one that will really rob the securities markets of innovation and creativity over time, if we don't deal with it.

So for that reason, some stability concerns, and our concerns about fighting intermarket fraud—where a fraudulent transaction starts in one market and ends in the other, and both policemen, if you will, are trying to catch it, but each of them are working on a separate side of a wall and only seeing half the transaction—while we cooperate together, and the CFTC and SEC staffs I think work reasonably well together operationally, we try to do the job, it just makes it much, much harder, when you are only seeing half of a transaction, to know which ones may be fraudulent.

So there are a number of problems there. Our own Commission has a division of opinion. Commissioner Shapiro, who served at the CFTC under Chairman Susan Phillips and who was general counsel to the Futures Industry Association, believes the status quo is no longer tenable and that the two agencies should be merged, and that that would be the best solution for the futures markets, as well as from a public perspective. Commissioner Fleishman is not certain that any change needs to be made, but if there were a change, he prefers the complete merger of the agencies. I believe very strongly that the stock index futures at a minimum need to be changed, and while I recognize some of the arguments for a broader change, I have been supporting the minimum change necessary.

Mr. **Smith**. Well, is the administration going to have an administration position, one position?

Mr. **Breeden**. I believe, and I really can't speak for the administration, but it is my expectation that given that there are some specific pieces of legislation that have now been introduced in both the House and the Senate, and since there is another bill that Senator Gorton has proposed in the Senate, I would think it is not impossible to project that the administration may take a formal position on one of those pieces of legislation, but I really don't know.

FUTURES

Mr. **Smith**. Well, now, you spoke of stock index futures, but aren't all futures where the underlying assets are regulated by SEC somewhat the same? They are different than commodities, in other words.

Mr. **Breeden**. Well, yes, you could say that a share of common stock is different from a pork belly——

Mr. **Smith**. Right.

Mr. **Breeden** [continuing]. And it has some different attributes, but the stock index future, the derivatives on stock itself, not on a physical commodity but on a share of stock, is something that, as I indicated earlier, every other country that has a futures market regulates under the same agency.

Mr. **Smith**. I was the author of the CFTC Act, so I am acquainted with some of these terms. A futures contract was to have an economic purpose. That has now been interpreted as being an economic purpose for anybody, and everything has an economic purpose for somebody, but it was anticipated certainly that the economic purpose would be for the major players in the industry.

In the case of pork bellies or wheat, it is the local elevator, the local dealer, the processor that needs the futures market to tie down his prices so that he can operate on a smaller margin, but that is different than stock index futures where people are buying stock. It is just different, isn't it?

Mr. **Breeden**. Well, yes. There are, I think, some significant differences. There are some similarities but there are some significant differences. The principal economic difference, I suppose, is that in the physical commodities area there really isn't an underlying cash market. The futures market performs virtually exclusively in what we call the price discovery mechanism. That is the market where farmers can get an accurate price for their production.

In the stock index futures area there is a very large cash market in the stock market itself that provides that pricing, so that while stock index futures provide some hedging opportunities, they aren't necessary in the stock area to provide price discovery. In fact, to the degree that they do so because their volume sometimes exceeds the volume on the stock market itself, you get two different prices set up for the same thing.

That then creates the need for index arbitrage and other mechanisms to try and bring the prices back together, because at the end of the day what you are buying and selling is the same thing. There are the same 500 stocks on the S&P, and you are buying them individually or you are buying them in a contract, but it is the same stocks. It would be a little bit like if I were selling pairs of tennis shoes in a blue box and in a red box. It is still the same identical——

Mr. **Smith**. You have different margins, too, but the reason that it was named the Commodity Futures Act was because it was assumed that it would deal with commodities as distinguished from financial contracts. That word was not put in there without thinking about it. It was intended.

Along later came all of these futures contracts which are now traded on the Chicago Board of Trade and the CME. I mean, that is the big money. Connected with that is, the CFTC assumption—and I think it wrongly—that they have got to approve almost every contract anybody wants to have approved. They should trim down a lot of these contracts. They shouldn't even be over there.

Anyway, they have approved all of these contracts, so now they have something like 122 contracts. Another one was just approved the other day and started trading. So they have a lot of contracts, and the commodities end of it is the small end of what they are doing now.

Mr. **Breeden**. About 20 percent, I think.

Mr. **Smith**. Yes, and they have a total of maybe 600 employees and you have about 2,400.

Mr. **Breeden**. Yes, sir.

COMMODITY JURISDICTION OPTIONS

Mr. **Smith**. But, see, you get back to merger. I think the Shad-Johnson agreement was a bad agreement to start with. I told Chairman Shad that at the time, and Chairman Barber agreed that it was a bad agreement. It was just a bad agreement from the beginning. It didn't really solve any problems.

But to get down to the question, it is this: If the administration would happen to come down on the side of leaving commodities with CFTC and all of the futures that have underlying assets that are financial with SEC, what would that do to your budget needs? Would you be able to operate with the part of CFTC's staff that is working on those kinds of futures? That is too broad a question for you to give a definitive answer, but in general.

Mr. **Breeden**. Secretary Brady has outlined the three options I mentioned: Complete merger; leaving the physical commodities at the CFTC and moving all the financial futures; or just dealing with stock index futures. I guess in a nutshell I think all three are workable, and we could handle the job, whichever job Congress chooses to give us, if——

Mr. **Smith**. Well, let's take one at a time. If there was to be a complete merger——

Mr. **Breeden**. Operationally that is the easiest because you have the entire CFTC staff joining the SEC staff. You have one board of directors, if you will, rather than two, so that you get a decisionmaking body that is a single decisionmaker for both sets of staff.

Mr. **Smith**. Do you visualize you would have the same total staff as the two now have?

Mr. **Breeden**. Frankly, I haven't tried to look at what kinds of savings there might be. We do maintain regional offices in the same cities in several cases—Los Angeles, Chicago—and there might be some savings in consolidating the branch offices. There are certainly duplicative administrative structures and the like, but in terms of the operating, regulatory personnel, the people doing the market oversight and surveillance, certainly we would not want to displace those people.

Mr. **Smith**. Now just as it has been said that CFTC hasn't been sensitive enough to some of the problems created by having low margins on stock index futures and so forth, it might also be said that the SEC might not be sensitive enough to the special problems in the commodities area. Do you think that is so, or not?

Mr. **Breeden**. No, sir, I don't think it—well, certainly people are concerned about that. I will not say that our agency is perfect. I don't think we are necessarily any smarter or any more dedicated than our colleagues at the CFTC.

Mr. **Smith**. Well, I guess it is whether or not your interests are so great in financial futures that the commodities would become a poor stepchild.

Mr. **Breeden**. These are major markets and they are important markets to the people who use them. I would not want to see any of these changes made if it had the impact of harming the agricultural markets or harming the financial futures markets. I think we have an interest in the economic functions that those products perform, and we have a very strong interest in having the U.S. markets in both securities and futures being successful in this global competition.

I think whatever one might say about the attitudes that might have prevailed at the SEC 10 years ago, the financial world has dramatically changed since then, and I think we are highly sensitive to the importance of those markets. If a change were made, the objective would not be to do any harm to the vitality of those markets, but rather would be to improve some of the problems of getting at intermarket fraud, to have more consistent margins and greater stability, and to get rid of this tragic situation we have in which you have to have these long legal wrangles over every new product and who ought to regulate it.

I think we could do that. I think we could successfully—if the Congress were to combine the agencies—I think we could very successfully combine the talents of both agencies.

COMMODITY LEGISLATION OPTIONS

Mr. **Smith**. Would you visualize that everything would be operating under the SEC law, or would you merge the two authorities, then?

Mr. **Breeden**. Under the merger approach—and here again to make clear that that for the record is not something I have advocated, although I understand why those who prefer that option find that attractive—under that approach you would not change the law. To the SEC, which already—and for the new agency, whether it was the SEC or a new agency, the combined agency—administers the 1933 Act, the 1934 Act, the Public Utility Holding Company Act of 1935 and the Investment Company and Advisers Act, you would add the Commodity Exchange Act.

Mr. **Smith**. So you wouldn't add to it, then?

Mr. **Breeden**. Yes, so those markets would stay under the same law they are under today. You would just have—the agency that was enforcing that law would be either the SEC or some new agency rather than the CFTC, but you wouldn't have to change the law itself.

Mr. **Smith**. Well, let's take a specific example. In the cattle contract, it got to the point where there were six times as many shorts as longs. CFTC did not do anything about that. There were packers on both sides. Under your law, would you have done something about that or would you have continued to let them offer it?

Mr. **Breeden**. Well, first it would depend on whether we were operating under the CEA or one of our existing statutes, I suppose, and it is difficult. I appreciate the importance of that question. It is difficult to answer a hypothetical question quite in that manner. I can say with great confidence, though, that we have regulated derivatives. Options are in fact derivative securities, and we have had regulated options since 1933. We have, I think, had a long and thorough history at the Commission for being very vigilant in attacking fraud in financial markets, and——

Mr. **Smith**. Of course, this isn't fraud.

Mr. **Breeden** [continuing]. And manipulation. So to the degree activities occurred that amounted to fraud or market manipulation, then those would be traditional concerns that the Commission has had.

Mr. **Smith**. It sets up an opportunity for manipulation. It is not necessarily fraud, but when you have six times as many shorts as longs, you have six times as much dependency on the long side on speculators, so it just is not a good way to operate a contract.

Mr. **Breeden**. Right, but I just wouldn't want to try and give you a snap opinion as to how the Commodity Exchange Act would precisely apply to that situation and whether we would second-guess whatever interpretation the CFTC, in fact, made on that.

Mr. **Smith**. So in effect what you are saying, then, is you would just operate the two side-by-side under one board.

Mr. **Breeden**. Under a merger, the people who advocate a merger, I think that is what they suggest. Rather than having two different boards reaching different decisions, have one board where the decisions can all be made, and a final answer obtained, without having to go to court.

The other two options, that is leaving the CFTC in place for physical commodities and agricultural products, and transferring the stock index futures and other financial futures, or simply transferring the stock index futures, in both those cases there would still be a CFTC with those markets operating under that law. Then if you were to transfer stock index futures, for example, to the SEC, you would possibly just redefine them as securities and regulate them under the applicable securities laws.

AGRICULTURAL AND PHYSICAL COMMODITIES

Mr. **Smith**. Now if there were to be division along the lines we have talked about, where does silver and gold come in? Is it a commodity or is it a financial future?

Mr. **Breeden**. Well, I think one could—I would think of those as probably being on the commodity side rather than the financial futures side.

Mr. **Smith**. Because it is a raw product, it is mining a raw product?

Mr. **Breeden**. Yes, it is actually mining and there is a physical production involved there. I think the line could, in fact, be drawn in a variety of ways. All physical commodities can be monetized, obviously, through sales, but since those involve physical production, I guess I would put them on the——

Mr. **Smith**. So you would do it on the basis of physical commodities versus paper commodities, in other words?

Mr. **Breeden**. Agricultural or physical commodities, probably, in the moving all of the financial futures option, in that second of the three options.

Mr. **Smith**. Well, not all of them are necessarily agricultural, but they are physical.

Mr. **Breeden**. I thought I said agricultural or physical, and you clearly would have some commodities that are not agricultural but would still stay under the CFTC.

ADMINISTRATION POSITION

Mr. **Smith**. When do you anticipate there will be a decision by the administration as to what position they are going to take, or do you know?

Mr. **Breeden**. I really don't know. I would say as an independent agency we are not involved directly in those deliberations. I participate in the President's Working Group and——

Mr. **Smith**. I was going to say you are on the Working Group, so you must have some idea.

Mr. **Breeden**. Well, we have had these discussions. We came to the conclusions with Secretary Brady and myself coming down on the side that we needed to overhaul margin regulation and get rid of this exclusivity clause, that we ought to make some change in jurisdiction. The CFTC and Chairman Gramm vigorously disagree with that conclusion. I would think that if the administration decides to go forward with a specific recommendation, given that these matters are pending before the Congress this year, that they will have to do so quickly.

IMPACT OF FUTURES MARGINS ON MARKET DROP

Mr. **Smith**. Have you taken a position as to whether or not you think that this splitting of jurisdiction over the opportunity to buy and sell stock index futures has something to do with the problem we had two years ago, the drop in the market?

Mr. **Breeden**. In my judgment, the differences, the enormous differences in leverage that are allowed in the two markets, because of the fact that in both 1987 and 1989 we went into those plunges in the market with stock index future margin levels at around 2 percent—so you have a situation in which, if you want to buy the S&P 500 stocks, you put down 50 percent and if you want to buy the S&P 500 futures contract, you put down 2 percent. Obviously the 25 times multiple in leverage that is allowed had a significant impact in some of the market dynamics.

Mr. **Smith**. As a matter of hindsight, do you think it had a substantial impact on that 1987 drop in the market?

Mr. **Breeden**. The drop itself resulted from a wide variety of factors, including a number of macro-economic factors, and I would not say that the sole cause was differences in the way stock index futures were traded.

Mr. **Smith**. Futures were just one of the things.

Mr. **Breeden**. But I think they were one of the factors that affected the risks that, when the drop began, determined how severe the drop would ultimately become and how much pressure would be put on the system, it was affected by the amount of leverage that was in place in the Chicago markets.

One of the things that certainly in 1989—and I was not in my current position, obviously, in 1987, although I have read the reports and studies that have been done of it—but certainly in 1989 it is very clear that we entered the hour and a half of trading on October 13 with most of the margin levels on the stock index futures at slightly over 2 percent. As the plunge occurred, because really the margin was so low and people were standing so close to the edge of the cliff, in essence, they had to jump back very quickly, and so the margins were very swiftly raised both on Friday and Monday morning.

So that at a time when the system was under its worst pressure, you had very large margin calls being made that were pulling liquidity out of the system, not putting it in. If we had gone into Friday afternoon's trading with margins at 15 or 20 percent, we would have had room to cut them to 10 percent for a week while the market stabilized itself.

So the current system, because it induced and allowed this behavior of extraordinary margin levels with no room for error, forces us into a situation in which at the first sign of trouble we do what is then possibly the worst thing, which is to take liquidity out of the market. I think that creates risks when the market does swing down. That adds risk that does not need to be there and that we could avoid.

PENSION FUNDS

Mr. SMITH. Well, to what extent are pension funds getting to be a—I don't know if I ought to use the word "problem"—but they are such a big player in the market, and they are becoming a bigger and bigger one all the time. Is this something that needs to be looked at, and what will you do about it if you do?

Mr. BREEDEN. Well, we are delighted that pension funds are major investors in the stock market, and hope they continue to——

Mr. SMITH. Well, let me break that down some. It is the difference in long-term investments and getting in and out of the market, a big player like that getting in and out of the market. In fact, I don't think they ought to be in and out of the market anyway. They have fixed obligations like insurance companies have. They shouldn't be playing the market from day to day. But to the extent they play the market, getting in and getting out, is it getting to be a problem or not?

Mr. BREEDEN. Well, institutionalization of holdings certainly can have an impact on some of the trading dynamics, and there is no question that we have seen in recent years that the swings in the market have become faster. Corrections that might have taken weeks or months can happen in an hour now, and one of the reasons the market can move more rapidly—and there are a number of reasons for that, technology is part of it and a number of other factors—is certainly the concentration of holdings in relatively larger pieces.

So if you had several of those institutions that decided, based on very sound macro-economic factors—they might have decided that developments in the economy made it more sensible to hold relatively more bonds than stocks or to readjust their portfolio in some way—but if a few of them decided and made the same decision at the same time, you can have an awful lot of activity on one side, buying or selling, at the same time. That puts correspondingly more pressure on the system for the other side of the orders to fill in.

If you had nothing but individual investors in the marketplace, and you had 53 million decisionmakers rather than 100, obviously it would be more difficult for swings, powerful swings, to develop.

Mr. SMITH. What share—and I don't know just how you measure this—but what share of the securities market now belongs to pension funds or retirement funds? Do you have anything on that?

Mr. BREEDEN. I can try and get you a figure there. I would say that all institutional holdings are probably somewhat larger than 50 percent.

[CLERK'S NOTE.—The information is provided in the response to the questions for the record.]

Mr. SMITH. Okay, and I was thinking I had one more question. Oh, junk bonds, are they in junk bonds very heavily? I know they got in to some extent, but pension funds, were they in junk bonds very heavily?

Mr. **Breeden**. Well, Mr. Chairman, one of the things, I want to be careful in my answer to say that individual pension plans each have their own individual investment policies. One fund might be wide open, no restrictions, and another one might have very carefully targeted limits on what they can invest in, so I am sure that there are some pension funds that own high-yield securities.

Our data indicate that the aggregate holdings of all the pension funds that are composed of high-yield securities is very small in percentage terms, well under 5 percent, I mean a very, very low percentage, but certainly there are some pension funds that invest in those securities and have found it attractive to do so. The percentage that they hold in any individual plan would differ from plan to plan.

COMMODITY JURISDICTION

Mr. **Smith**. Well, in some sense you are saying that the fact of the matter is, as we mark up this bill in a few weeks we just have to mark it up on the assumption that your jurisdiction is not going to change.

Mr. **Breeden**. Well, in terms of these requests, I mean, even if there were a jurisdictional change, it would be very difficult and presumptuous for us to project anything of that kind, so we have a budget here that covers what we know we will need in any event. Even if there were some change in jurisdiction, we know that this amount is necessary to handle—unless we lose responsibilities——

Mr. **Smith**. There is no discussion of that, is there?

Mr. **Breeden**. Not that I know of. [Laughter.]

When jurisdictional questions get going, one never knows, I suppose it would be possible to move the stock regulation over to meet the stock index futures rather than the other way around, but——

Mr. **Smith**. But you don't have anything under your jurisdiction that it is claimed are really futures?

Mr. **Breeden**. No, although the arguments are made that while financial futures are unique because of their risk-shifting instruments and derivatives, this also would apply to options. I mean, they are also derivatives and they also involve risk-shifting attributes. So as I indicated at the outset in discussing the exclusivity clause, you could also argue really that all financial products involve an element of investment and an element of risk-shifting.

But I don't anticipate any move to take jurisdiction away from us, and therefore I think that this budget request is the one that will be necessary in all events. If there is a jurisdictional change, then depending on what that change is, we would hope either to see a combining of the budgets or whatever portion of the resources that might be necessary for any function to be added.

Mr. **Smith**. Thank you.

HOSTILE TAKEOVERS

Mr. **Early**. I HAVE just one question, Chairman Breeden. What jurisdiction does the Commission have in the area of hostile takeovers?

Mr. **Breeden**. Well, Congressman, we have jurisdiction in a number of respects. We do regulate the conduct of tender offers under the Williams Act, so to the degree that a takeover transaction involves a tender offer, the tender offer documents themselves are prepared on SEC forms. Those documents are filed with the Commission. We review them quite actively.

The procedures followed in a takeover transaction are, for the most part, Federal procedures that we enforce under the Williams Act. There are also state law procedures that may apply, but all tender offer transactions would occur under our oversight as part of the securities laws.

Mr. **Early**. I might be in touch to get some specific information on that.

We have several other questions on the EDGAR program and data processing and, since we have another agency to take up this morning and we have the supplemental bill on the floor, we will include these questions in the record, and if you would answer them, I would appreciate it.

Chairman Smith, do you have any questions?

Mr. **Smith**. No questions.

Mr. **Early**. Mr. Dwyer.

Mr. **Dwyer**. No questions.

Mr. **Early**. Mr. Rogers.

Mr. **Rogers**. No, thanks.

Mr. **Early**. Fine. We thank you for your testimony Mr. Breeden.

[Questions submitted by Congressman Smith follows:]

Questions Submitted by Congressman Smith

EDGAR Program

QUESTION:

You are requesting a program increase of $1,933,000 for EDGAR contract costs. What is the status of the EDGAR project?

ANSWER:

The design of the first release of the operational EDGAR system is essentially complete. It should be ready to accept test filings and pilot filers and filing agents by February 1991. A second release of the operational software will be installed and tested before the pilot filers and filing agents are invited to make live filings on the system in July 1991. If no unusual difficulties are encountered, the phase-in of the first group of 2,500 mandated filers will begin in early November 1991. The requested funding for FY 1991 will enable the SEC to complete the initial implementation of the operational EDGAR system and extend the pilot until it can be phased out in August 1991.

QUESTION:

What factors were taken into account when the MITRE Corporation, the contractor, estimated cumulative external benefits of $200 million?

ANSWER:

The MITRE study of the external benefits and costs of the EDGAR system was completed in December 1988. It was based on an extensive survey of filers, filing agents, law firms, accounting firms, state regulatory agencies, SROs, individual investors, broker-dealers, investment advisers, investment banks, and others. Approximately 4,000 people from these different interest groups were contacted through interviews, questionnaires and telephone surveys. In all cases, the respondents were given a description of the EDGAR system and asked to estimate the potential benefits and costs of either filing on EDGAR or having access to EDGAR data.

Over 1,200 people responded to the survey. Based on those responses, MITRE determined that both filers and investors would realize a cumulative net benefit of slightly over $200 million over the eight year life of the EDGAR contract. As a group, filers anticipate a net reduction in administrative costs and staff time to make EDGAR filings in lieu of paper filings even though the savings will be partially offset by equipment and training costs. Investors see net benefits in obtaining more up-to-date information when they need it and in making EDGAR data available to their brokers and investment advisers. Investment banks perceived similar benefits and significant administrative cost savings by having rapid access to accurate, complete, and current disclosure information.

QUESTION:

I understand that the level of review of financial statements and related disclosures will be substantially below the Commission's goal for FY 1991. This reduction is attributable primarily to the expected adverse impact on productivity during the conversion to electronic filing under the EDGAR system. What are the anticipated consequences of such a reduction in the review level?

ANSWER:

The Commission will continue to review the transactional filings of those issuers who meet the selective review criteria. Although reviews of periodic reports will be reduced, the number of issuers whose annual financial statements and related management discussion and analysis disclosures are reviewed will approximate the number reviewed in 1987. Given the reduction in periodic report reviews, the Commission will prioritize its selection criteria to make certain that the staff's attention is focused on those issuers whose filings most warrant review.

QUESTION:

Some of the additional funds requested are for filer support. Will staff have to be detailed from the operating division at the expense of the review staff, which will result in lower productivity in reviewing filings?

ANSWER:

The agency expects to hire enough filer support staff for the Office of Applications and Reports Services and the Office of EDGAR Management to answer filer queries without calling on the staff of the operating divisions. However, during peak periods, the operating divisions may be required to assist the filer support staff for brief periods.

QUESTION:

Do you anticipate there would be reductions in review levels in any year other than 1991?

ANSWER:

Increases in productivity should be experienced when a sufficient number of staff are familiar with the new system and the number of issuers making electronic filings increases. Until there is a critical mass of trained staff, the transition to the operational system will cause disruptions. It is currently estimated that staff training on the system will begin in the first half of fiscal year 1991 and continue for approximately one year, and that filers will be phased-in over a period of 36-48 months beginning in November, 1991. Thus while certain increases in efficiency may begin as early as the end of fiscal year 1992, it is not expected that measurable increases in efficiencies will be apparent for at least one year later.

Data Processing

QUESTION:

You are also requesting a program increase of $3,200,000 for data processing support. I understand that this request is needed to support three priority efforts. What are these efforts, and what is their priority?

ANSWER:

The additional $3.2 million in 1991 will be used to improve the Commission's operations as follows.

Approximately $1.3 million will be used to provide hardware and software enhancements to the Commission's main computer system. These enhancements will provide a variety of productivity benefits, including:

- greater acceptance of electronic information from regulated entities;
- improved automated support for the Commission's litigation activities; and
- easier access to, and retrieval of, SEC enforcement information through interactive personal computer (PC) processing.

Approximately $1.4 million of the 1991 increase will be used as follows:

- improving security over the Commission's automated systems in order to reduce the threat of leaks and misappropriation of confidential commission information; and
- providing more personal computers to the SEC staff, thus improving their productivity and office efficiency.

The remaining funds will be devoted to addressing the need for real-time international market information brought about by the globalization of financial markets. Real-time global market data improve the Commission's ability to monitor and analyze complex market forces and trends.

Study of the Securities Markets

QUESTION:

The Insider Trading and Securities Fraud Enforcement Act of 1988 authorized the Commission to conduct a comprehensive study of the securities markets. This legislation, however, made the study subject to a special $5 million appropriation. Given the vast changes in the securities markets and the failure of Drexel, Burnham, Lambert, should we appropriate the $5 million to conduct this study?

ANSWER:

A special study of the securities markets would not be appropriate at this time. As a normal matter, the Commission considers the implications of many of the trends that have affected our capital markets in recent years. This continued updating of the Commission's understanding of the ways in which the securities markets are evolving is important to effective regulation of those markets. For example, the Commission's Division of Investment Management recently began a comprehensive review of the Investment Company Act and the Investment Advisers Act in the context of the significant changes in the securities markets in recent years.

In addition to the normal analytical work of the Commission, numerous studies and other relevant information already exist in the literature regarding financial services that can form the basis for sound policy-making. Another comprehensive study of all of the securities laws, similar to the one conducted in the early 1960s, might delay significantly the process of modernizing the Commission's statutory programs without developing significant new information or perspectives. The Commission should, on an ongoing basis, provide Congress with analysis of market trends and reevaluation of existing statutes and regulatory programs. Toward that end, it would be more desirable to increase permanently the Commission's analytic capabilities rather than to perform a single study on a temporary basis.

QUESTION:

Could the study be accomplished with less money?

ANSWER:

No. As indicated in the preceding answer, a special study of the securities markets is not appropriate at this time. If, however, the Commission were to conduct such a study, a minimum appropriation of $5 million would be necessary.

Full Disclosure

QUESTION:

You are requesting an increase of 14 positions for your Full Disclosure Program. I notice in the justification that there is a new emphasis in the Full Disclosure Program as well as your other programs on internationalization. What is this new program and how many of these additional positions will be allocated to internationalization?

ANSWER:

The additional staff requested for 1991 will be used in connection with the program's international activities. Nine positions will be devoted to rulemaking and interpretation related to the internationalization of the securities markets, particularly the accommodation of cross-border and global securities transactions. Three positions will be added to the review of filings activity to address disclosure issues that arise with respect to multinational tender offers and other similar transactions. The remaining two positions will be used in the accounting policy area to focus on improving international accounting and auditing standards and on reducing the differences in standards that currently exist among countries.

QUESTION:

I understand that you have established an Office of International Affairs to coordinate and facilitate the SEC's international activities. What functions will this Office perform, and why didn't you notify this Committee that you proposed to establish such an Office through a reorganization proposal?

ANSWER:

The Office of International Affairs will be the principal point of contact for the negotiation and implementation of the Commission's Memoranda of Understanding with foreign governments. It will serve as a central point of contact for communications with foreign authorities. It is responsible for coordinating the Commission's responses to foreign initiatives and with multilateral organizations such as the International Organization of Securities Commissions. The Office also will develop domestic initiatives to enhance the Commission's international enforcement program. The Office has been staffed initially with five positions which were transferred from the Division of Enforcement, where these functions were previously performed.

The Office of International Affairs involved an internal realignment of existing staff in the Prevention and Suppression of Fraud Program. The change in status from a sub-organization within the Division of Enforcement to a separate organization still within the Fraud program provided the office greater autonomy to focus on the internationalization activities that have been underway in that and other Commission programs for several years. Although the fraud program has had the largest, dedicated level of effort in the international area, similar units have been established in other program areas to ensure that their international efforts are also focused for maximum benefit.

Since there was no change in the Fraud program's mission, resources, level of effort, or activities, the SEC did not formally notify the Committee. However, the 1991 budget document fully describes the agency's emphasis on internationalization, the Office, and the purposes for which it was established (see page II-i of the SEC Budget Estimate for Fiscal 1991).

QUESTION:

What action is the Commission taking to ensure that financial institutions, such as banks and savings and loans, are adequately disclosing their financial condition?

ANSWER:

The Commission has increased its review presence in the area of bank and saving and loan holding companies by establishing a special task force. The task force is under the direction of the Chief Accountant of the Division of Corporation Finance and is comprised of 10 to 12 staff accountants reallocated from the review branches. The task force will review the financial statements and related disclosures of several hundred institutions by the end of the year. In addition, the Division has two other branches consisting of 31 review personnel who, as a major part of their responsibilities, review the filings made by bank and saving and loan holding companies. Additionally, a special unit has been created within the Division of Enforcement to handle cases relating to depository institutions or their holding companies.

QUESTION:

What is the Commission doing to encourage transnational capital formation, to develop a multi-jurisdictional disclosure system, and to assure that U.S. shareholders are protected from foreign takeovers?

ANSWER:

The Commission's goal is to encourage foreign issuers to enter the U.S. public market and avail themselves of the full breadth and liquidity of that market, thereby increasing investment opportunities for U.S. investors. The Commission has accommodated foreign private issuers by:

- developing a separate registration and reporting system for certain foreign issuers;
- making some adaptations in disclosure requirements such as for management remuneration and transactions with management; and
- adopting an integrated disclosure system for foreign issuers enabling them to use periodic reports previously filed in the United States in connection with public offerings made here.

In addition, accommodations have been made with respect to segment reporting and other supplemental financial disclosures in annual reports and in non-convertible investment grade debt offerings by issuers that have been subject to the Commission's reporting requirements for 36 months.

The Commission's approach has been to work with foreign issuers to facilitate their adjustment to U.S. disclosure requirements, through pre-filing conferences and other means, and to accommodate foreign time schedules.

As noted in its November 1988 Policy Statement, the Commission believes that its goal should be to minimize regulatory impediments without compromising investor protection. The Commission also believes that it must seek to accommodate foreign law and practice, but avoid compromises that would give foreign issuers an undue advantage over domestic issuers in the U.S. markets. Consistent with these views, the Commission has responded to the foregoing concerns with three major initiatives--the multi-jurisdictional disclosure system, Regulation S, and Rule 144A.

A. Multi-jurisdictional Disclosure

Differences in disclosure requirements, accounting principles, and auditing standards are impediments to multi-jurisdictional offerings. The Commission's staff is participating in multinational efforts to achieve international agreements on internationally acceptable principles and standards in these areas. Also, staff from the Commission's Division of Corporation Finance actively participates in the work of the International Organization of Securities Commissions' Working Party No. 1, formed by the Technical Committee of that organization to study the methods of offering securities on a multinational basis and problems associated with multiple listings. The Working Party is charged with identifying regulatory problems encountered in such offerings and, to the extent consistent with the protection of investors, promoting regulation that would facilitate the cost-effective raising of capital in all capital markets where investor demand exists. Additionally, in July 1989, the Commission proposed a multi-jurisdictional disclosure system with Canada. The system would permit Canadian and U.S. issuers meeting specified tests to use the offering and continuous disclosure documents that they file with their home country regulatory authorities to meet the disclosure requirements of the other country. The system also would let a Canadian issuer making a tender offer for a Canadian company's securities, less than 20 percent of which are held in the United States, comply with the Canadian rules regarding the conduct of a tender offer, rather than the Williams Act, for offers in the United States.

With respect to multinational tender offers generally, the Commission intends to address the special problems of the exclusion of U.S. shareholders from these offers on several fronts: first, by asserting jurisdiction where a basis exists under principles of U.S. and international law; second, by administering its tender offer requirements in a flexible manner to take into account differing legal requirements and tender offer practices, to allow offers to proceed simultaneously in this and other countries on an equal basis to all shareholders; and finally, to explore longer-term and broader-based solutions, including the implementation of a multi-jurisdictional disclosure system.

B. Regulation S

Regulation S was adopted by the Commission on April 19, 1990 to clarify the extraterritorial application of the registration requirements of the Securities Act.

C. Rule 144A

Rule 144A was adopted by the Commission on April 19, 1990, to provide a non-exclusive safe harbor exemption from the registration requirements of the Securities Act of 1933 for specified resales of restricted securities to institutional investors.

QUESTION:

In February, the Supreme Court ruled that many unsecured promissory notes sold privately and not traded on any exchange are subject to Federal regulation as securities. What impact will this decision have on the work load of the Commission? How many additional staff will be needed to handle this work load?

ANSWER:

We do not believe that the Supreme Court decision in Reves v. Ernst & Young should increase the Commission's staffing requirements. The decision closely tracked the arguments made in the Commission's amicus curiae regarding the applicability of the "family resemblance" approach for determining whether a note is a security. That approach has been used by the staff in responding to interpretive questions regarding the applicability of the registration and other provisions of the federal securities laws to notes, accordingly the decision is not expected to have a substantial impact on the Commission's work load. Moreover, where notes are issued in a private placement and are not traded on an exchange, the federal securities laws would not impose any Commission filing obligations on the issuer and therefore, no additional processing burdens will be imposed on the staff with respect to issuances of such notes.

Prevention and Suppression of Fraud

QUESTION:

The budget justifications indicate an anticipated 10 percent annual increase in complaints and inquiries for the Consumer Affairs Office of the Commission. I see that you are requesting an increase of 63 positions for the Prevention and Suppression of Fraud activity. What accounts for this increase in complaints, and how many of these positions would be allocated to the Consumer Affairs Office to handle the increased work load? How will the remainder of these additional positions be allocated in the Prevention and Suppression of Fraud activity?

ANSWER:

The anticipated increase in the number of complaints and inquiries is due to several developments in the securities marketplace. SEC initiatives to combat fraudulent activity involving penny stocks, particularly the distribution of consumer education materials, have raised public awareness and significantly increased the visibility of the Office of Consumer Affairs and Information Services. In addition, periods of excess market volatility may cause investors to experience transactional difficulties and many investors contact the SEC with a variety of complaints. To the extent that the markets remain vulnerable to rapid price movements, investor complaints and inquiries will probably remain high. Finally, the availability of sophisticated investment products and strategies, additional investment opportunities as a result of internationalization of the securities markets, and the potential for abuses in the industry as investment firms and professionals compete for business are also factors that contribute to the anticipated increase in complaints and inquiries.

Three new positions will be used to increase the staff that handles the public complaints and inquiries. The remaining 60 positions requested for the Prevention and Suppression of Fraud Program in 1991 are proposed to be allocated as follows:

- 37 positions for the Division of Enforcement;
- 18 positions for the Regional Offices; and

- 5 positions for the Office of International Affairs.

The 37 positions for the Division of Enforcement will bring the investigative branches to full strength, restoring positions taken in 1990 to form the bank and thrift fraud unit and to staff the penny stock task force. Also, positions will be allocated to the Division's trial unit; to provide assistance to criminal authorities; to the market surveillance unit for analysts with computer and market expertise; and support functions, including paralegal, administrative, clerical and computer technician staff.

In the regional offices, the additional 18 positions will be allocated to deal primarily with the continuing emphasis on penny stock fraud and other market manipulation cases, violative activity by broker-dealers, investment companies and investment advisers and financial fraud by reporting companies. With respect to the penny stock area, the schemes being uncovered involve a broad mix of participants and both domestic and international investors. The investigations being pursued are resource intensive and often result in litigation vigorously contested by the defendants targeted by these inquiries. Because of the egregious nature of many of these frauds, there is often interest in the cases on the part of criminal prosecutors who in turn look to the Commission for assistance in putting their cases together.

The five positions allocated to the Office of International Affairs will be used in the development and implementation of investigative access and information sharing agreements with other nations, and in assisting with enforcement cases having international dimensions.

QUESTION:

I understand that you are requesting $100,000 to host the 1991 annual meeting of the International Organization of Securities Commissions. What is the benefit to the SEC in hosting this meeting?

ANSWER:

The Securities and Exchange Commission helped establish the International Organization of Securities Commissions (IOSCO) fifteen years ago. Since that time, IOSCO has grown to include securities regulators from 63 countries. The IOSCO annual meeting has become the single world event where all securities regulators meet to exchange views regarding the critical issues of cooperation and coordination in regulating securities markets.

The Securities and Exchange Commission has agreed to host the annual conference of the International Organization of Securities Commissions in 1991. This meeting will be a major undertaking for the Commission and represents a landmark in the agency's overall commitment to leadership in the internationalization of the securities markets. The 1991 conference to be held in Washington, D.C. will be an important event for the national and international financial regulatory community, the bar, and the industry.

The annual meeting provides international securities regulators with their most important opportunity to: (a) exchange views regarding current issues and developments in international cooperation and securities regulation; and (b) educate the international securities industry and the public about such matters. Moreover, the meeting provides the regulators an opportunity for bilateral and multilateral meetings among themselves. The conference in 1991 has taken on particular importance because it will take place one year before a critical international event takes place in the European Community (EC)--the planned implementation of the EC internal market structure in 1992. Given that globalization is the single most important issue facing the securities industry and its regulators, the 16th annual meeting should be particularly well attended by IOSCO delegates, representatives of several federal and state governmental agencies, and observers from SROs, financial services firms and others with an interest in creating a stronger international framework for regulatory cooperation.

QUESTION:

In recent years the SEC has emphasized insider trading and large transactions in its enforcement activities. What will be your emphasis for FY 1991?

ANSWER:

The Commission's vigilance in protecting the marketplace from insider trading violations involving large securities transactions will continue. The Commission, however, maintains a balanced enforcement program aimed at a presence in each area subject to its jurisdiction. While insider trading or large securities transaction cases may receive significant attention from the national press, in the last decade the majority of the Commission's cases have been in more traditional enforcement areas. These have included cases involving securities offerings and regulated entities--areas that may be perceived as being more directly related to small investor protection.

For 1990 and 1991, the Commission is placing more emphasis on the protection of small investors to maintain their confidence in the fairness and integrity of the nation's securities markets. We expect that the continuation and expansion of the Commission's enforcement efforts against violations by regulated entities, market manipulations and securities offering and financial disclosure fraud (including increased enforcement actions involving thrifts and other financial institutions) will increase the confidence of small investors in the securities markets.

QUESTION:

What is the SEC doing to attack the penny stock fraud problem? What efforts are being taken to protect the small investor and small businesses from fraud and to restore investor confidence?

ANSWER:

In October 1988, the Commission established the penny stock task force (task force) to address the increasing problems of manipulation in the over-the-counter market for low-priced securities. It includes senior staff representatives from each of the Commission's regional offices and operating divisions. The task force compliments other efforts relating to penny stock fraud undertaken by the Commission.

The Commission has identified four goals for its efforts to combat penny stock fraud:

- increased coordination and information-sharing with other federal, foreign, state and local regulators and prosecutors;
- stepped-up enforcement activities, including criminal referrals when appropriate;
- targeted regulatory solutions; and
- investor education.

The Commission has made significant progress in each of these areas. Ten regional meetings have been held around the country with federal and state regulators and prosecutors, including staff from various U.S. Attorneys' Offices, the Federal Bureau of Investigation, the Internal Revenue Service, the U.S. Postal Inspection Service, and the National Association of Securities Dealers. Also, enforcement actions in this area increased by 58%--from 43 in FY 1988 to 68 in FY 1989.

In the last 19 months, the Commission's regional offices have completed 197 examinations of penny stock broker-dealers. These examinations have uncovered serious violations involving excessive mark-ups, market manipulation, high-pressure boiler-room sales practice abuses, and misrepresentations concerning the business activities and financial condition of corporate issuers. Enforcement referrals have been made in 94 (47.7%) of the completed examinations, and another 20 examinations (10.2%) have resulted in referrals to the NASD for enforcement consideration. Most recently, the Commission organized and participated in the largest nationwide examination program ever undertaken by securities regulators. The purpose of these targeted examinations was to assess penny stock broker-dealer compliance with the new Rule 15c2-6, the "cold calling" rule. In conjunction with the NASD and the state of Florida, over 130 main offices and 70 branch offices of penny stock broker-dealers were examined. While most firms made some effort to comply with the rule's requirements, a significant number of broker-dealer offices fell short of full compliance.

New rules have been adopted that require brokers selling most non-NASDAQ over-the-counter securities to make a written suitability determination for each investor, and to obtain the investor's written approval on the first three purchases before those transactions are executed. Additionally, a rule proposal that is pending currently is intended to alert the broker-dealer trading community to situations where quotations might facilitate fraudulent or manipulative schemes.

Finally, the Commission is concerned about alerting the investing public, particularly small unsophisticated investors, to the risks of penny stock fraud. To increase investors' awareness of how to recognize and avoid fraudulent penny stock schemes, the Commission has written and distributed three investor bulletins on penny stock fraud.

The Commission is working with Congress to obtain new enforcement remedies that would greatly facilitate the effort to attack penny stock fraud. Authority to impose fines, issue cease and desist orders and to obtain access to criminal investigative information are contained in legislation suggested by the Commission to allow it to hit penny stock fraud artists harder, and to react much more quickly.

Supervision and Regulation of Securities Markets

QUESTION:

What role did the SEC play in the events surrounding the Drexel, Burnham case?

ANSWER:

The Commission was among the first agencies to discover the severe financial problems involving the parent firm of Drexel, Burnham, Lambert, Incorporated. The Commission, working in close coordination with the New York Stock Exchange (NYSE) and the Federal Reserve Bank of New York, led the efforts to determine Drexel's financial condition and to take actions to protect public customers, other market participants and the overall financial system. The Commission prevented dissipation of the broker-dealer remaining capital, which allowed the broker-dealer to avoid bankruptcy or the need for a SIPC liquidation. The

Commission worked actively with the Federal Reserve Bank of New York to keep clearance and settlement system operating to enable orderly disposition of broker-dealer's portfolio assets, and to transfer virtually all customer accounts to other firms. Ultimately the failure of this firm, with total assets of approximately $28 billion, was handled without cost to the federal budget or taxpayers. Similar sized bank failures have cost the budget several billion dollars. Chairman Breeden was in constant contact with Treasury Secretary Brady, Federal Reserve Board Chairman Greenspan, and Federal Reserve Bank of New York President Corrigan, and NYSE President John Phelan.

QUESTION:

You are requesting an additional 33 positions for this program. How will these additional resources be allocated, and how did you establish your priorities in this area?

ANSWER:

The additional positions will be used in several program areas.

A. Oversight and cause examination program

In particular, the new staff will permit establishing a regular examination cycle of the arbitration programs of all securities exchanges and the National Association of Securities Dealers. The new staff also will enable the Commission to establish a special unit of broker-dealer examiners who will address special problems or issues that the Commission has targeted, such as more thorough examinations of the branch offices of penny stock brokers.

These additional staff positions would facilitate the Commission's ability to monitor the financial condition of broker-dealers and their affiliates and to respond more quickly if events occur that threaten the financial stability of a broker-dealer.

B. Internationalization efforts

Some of the new staff positions will be devoted to automation and international market issues. This will enable the Commission to focus greater attention on issues raised by international securities trading and to expand its efforts to negotiate memoranda of understanding with other countries regarding coordination of regulatory oversight and the clearance and settlement process.

QUESTION:

The budget justification indicates that you plan to increase broker-dealer oversight examinations in 1991 by about nine percent. Why are you increasing your broker-dealer oversight exams instead of cause exams, given that the SEC relies on regulation of the securities industry through SROs.

ANSWER:

Although the SEC relies on the SROs as a primary vehicle for the regulation of the securities industry, the SEC conducts oversight examinations to monitor the efficacy of SRO oversight. SRO members are examined to ensure that broker-dealers are complying with selling and trading practices standards and that the SROs are effectively identifying problems and taking appropriate corrective actions.

The SEC oversight examinations are performed primarily by the nine regional offices. Since FY 1986, when the regional offices had conducted 481 oversight examinations (the highest number), the number has steadily decreased to 328 in FY 1989--a 32% decrease. This reduction is attributable to staffing limitations and the diversion of examination resources to conduct cause examinations necessary to meet special problems, e.g., penny stock activities. During this same time period the number of cause examinations increased by 115 percent. Accordingly, the increased number of oversight examinations projected for FY 1991 will enable the SEC to restore an adequate sampling of the various business activities conducted by SRO member firms.

QUESTION:

What is the status of the work of the Working Group on Financial Markets, which President Reagan established in March of 1988, and how many of these additional positions will be allocated to completing its initiatives?

ANSWER:

The Commission is committed to pursuing completion of the Working Group's initiatives and many of the recommended changes have been implemented. For example, considerable progress has been made in the clearance and settlement area, particularly in accelerating trade comparison to a next-day basis and in establishing pilot programs for cross-margining positions in securities option contracts and related futures contracts. Other changes, of an intermarket nature, have yet to be implemented, particularly in clearance and settlement.

The additional resources in the Supervision and Regulation of Securities Markets (allocated among headquarters and regional offices) will permit the SEC to move forward with these recommendations. The additional resources (3 staff years allocated to headquarters and approximately 5 staff years allocated to regional offices) will permit expanded staffing of and inspections support for a capital markets group within the Office of Financial Responsibility and information concerning the activities of foreign subsidiaries of U.S. broker-dealers and analyzing the effect of such activities on the broker-dealers.

QUESTION:

What additional authority would the Commission need to deal with market volatility, such as the stock market crash in October 1987 and the steep decline experienced in October 1989? What is the Commission doing to standardize rules such as "circuit breakers," margin requirements, and short selling rules to curb excess market volatility?

ANSWER:

The most grave risks of market instability are created by the current fragmentation of regulatory authority over equities and stock index futures and other equity derivatives. Transfer of authority over stock index futures from the CFTC to the SEC, and creation of government authority over margin levels, would each help to lower the risks of serious market disturbances. All members of the President's Working Group on Financial Markets have now endorsed these steps to strengthen our market oversight mechanisms, except the CFTC.

In response to concerns raised by the market events of October 1987 and 1989, the Commission has proposed market reform legislation that would provide for:

- information reporting by broker-dealers about the operations of their holding companies and affiliates for purposes of risk assessment;
- large trader reporting;
- enhanced authority for the Commission to facilitate developing a coordinated clearance and settlement system; and
- emergency authority for the Commission to halt trading or take other action in the event of a severe market disruption.

Of these provisions, the holding company risk assessment section is particularly critical to the Commission's ongoing efforts to monitor risks to the stability and integrity of the nation's securities markets. As the recent events involving Drexel Burnham Lambert, Inc. demonstrate, the Commission must have regular information regarding a broker-dealer's holding company and related corporate organization if market participants, lenders, and public customers are to maintain confidence in the integrity of broker-dealers and U.S. securities markets. The market reform legislation, which is pending in the Senate as S. 648 and in the House as H.R. 3656 and 3657, would give the Commission the tools and information it needs.

The large trader reporting and clearance and settlement portions of the market reform bill also are vital to the Commission's ongoing regulatory efforts. The information obtained from the large trader reporting program would:

- be similar to the information that the CFTC currently receives;
- help the Commission to detect manipulative and other abusive trading practices; and
- facilitate investigations into possible illegal activities.

The clearance and settlement authority, would facilitate the development of a coordinated clearance and settlement system. It also would give the Commission the authority, under carefully delineated conditions, to adopt rules that would preempt state laws that impair the safe and efficient operation of the clearance and settlement system.

The Commission believes that circuit breakers may promote market stability by providing market participants with breathing room to react to a steep market decline generated by institutional selling. Currently, the Commission is reviewing the performance of several of the "circuit breakers" that have been triggered during the last year. In addition, the Division of Market Regulation is reviewing two proposals by the New York Stock Exchange (NYSE) to modify its circuit breaker procedures. Finally, the Commission continues to consult with the CFTC to review potential changes to current circuit breaker procedures.

The Commission believes that lower margins for derivative products have contributed to institutional trading strategies that have greatly increased the volatility and concentration of stock trading. One method of alleviating this volatility would be for Congress to set a minimum margin level for all equity products of 15-20%. This "national speed limit" for margins would help ensure that, with interconnected equity markets, no single market becomes excessively leveraged.

Although the Commission views the short sale rule, Rule 10a-1 under the Exchange Act, as playing only a small role in reducing market volatility, the Commission only last week clarified the scope of exemptions to eliminate potential laxity in the observance of certain provisions of the rule. The rule was designed principally to prevent manipulative sales of a security for the purpose of accelerating a decline in the price of that security. The Commission believes that the extension of short sales restrictions to the options and futures markets is not operationally feasible.

Inspections. This group will identify and address capital and oversight issues similar to the issues of risk created by holding company structures in the securities industry (Drexel Burnham Lambert Group, Inc. was one such firm). The additional resources (9 staff years) also will permit the Office of Self-Regulatory Oversight to devote attention to intermarket (securities, options and futures) and international market matters.

The Working Group continues to meet to consider stability issues. For example, three of its four members recently recommended the transfer of jurisdiction over stock index futures from the CFTC to the SEC and consolidation of margin authority for both stocks and futures in a U.S. government agency such as the Federal Reserve or the Commission. These three members, representing the Department of the Treasury, the Federal Reserve Board, and the SEC, also recommended elimination of the "exclusivity clause" of the Commodities Exchange Act. Only the CFTC has dissented from these recommendations that are designed to prevent destabilizing market practices and current barriers to competition and innovation.

QUESTION:

Are any of these additional positions going to be allocated to the issue of the adequacy of capital standards for securities broker-dealers?

ANSWER:

No. There are presently eleven staff positions responsible for the monitoring and interpretation of existing capital standards, as well as the development of new financial responsibility requirements where appropriate. The Commission will review the need for additional staffing in this area.

QUESTION:

How many of these additional staff will be allocated to the issue of foreign subsidiaries of U.S. broker-dealers operating in countries with low capital standards and defaulting and possibly bringing down the parent company in the U.S.?

ANSWER:

The capital markets branch of the SEC's Division of Market Regulation will be responsible for monitoring the risks and exposures presented by the major securities firms and their affiliated entities. The pending Market Reform Act (S.648) would authorize the Commission to obtain information about the material financial and securities activities of affiliates of registered broker-dealers. Should that legislation be enacted, the capital markets branch would be responsible, among other things, for gathering financial

Investment Management Regulation

QUESTION:

In the FY 1990 Appropriations Act, Congress approved additional resources to reduce the backlog in public utility filings. What steps have been taken to address the backlog, and how much has it been reduced?

ANSWER:

The Division of Investment Management was authorized to hire eight additional staff in 1990. As of April 9, six additional staff have been added. The full benefit of the new positions will not be achieved this year due to the time required to recruit, hire, and train additional staff. As a result, gains attributable to new staff will not be realized fully during 1990.

In January 1989, the Division estimated that there would be a backlog of 139 public utility filings at the end of 1990. However, due to increased staff productivity and exemptions for certain filers adopted by the Commission (Rule 52), as well as the new staff, the current estimate is that there will be a backlog of only 50 such filings by that time. The Division estimates that the backlog will be reduced by an additional 60% to 20 such filings by the end of FY 1991. As of the current time, the backlog is 69 filings which includes 40 complex filings. These filings involve matters such as diversification, mergers and acquisitions, creation of new holding companies, exempt-company status questions, unique and novel financings, and service company issues. The Division expects that the staff will make substantial progress in reducing the backlog of complex filings by the end of FY 1991.

QUESTION:

Your are requesting an increase of 25 positions in the Investment Management Regulation activity. How many of these additional resources will be allocated to the monitoring of the growth of money funds? How will the remainder of these additional resources be allocated?

ANSWER:

Fourteen of the 25 new positions in 1991 will be distributed among the Commission's regional offices. These positions will be filled with newly hired securities compliance examiners for the inspection program. The Division of Investment Management will receive the remaining 11 new positions. These positions will be divided among the Division's offices that deal with disclosure and regulatory issues, and four of the positions will be assigned to projects relating to internationalization of the securities markets.

QUESTION:

Has the SEC done a study to determine the impact of the proposed establishment of a self-regulatory organization to assume the day-to-day regulation of investment advisers? What were the results? What are the projected cost savings and projected savings in staff if such an organization were established?

ANSWER:

The SEC has not studied what effect the establishment of a self-regulatory organization (SRO) would have on the day-to-day regulation of investment advisers. Although establishing an SRO should increase the frequency of investment adviser inspections, the SEC does not expect to acheive any cost or staff savings. The SEC still would have to oversee the SRO's activities and would continue to have primary inspection responsibility for investment advisers and investment companies. A substantial commitment of SEC staff would be necessary to establish the SRO, review its rulemaking and operating procedures and monitor its on-going activities.

Legal Services

QUESTION:

You are requesting an additional nine positions in your Legal Services activity. What has been the increase in work load in this activity in the past year?

ANSWER:

High levels of enforcement activity, particularly in the insider trading, financial institution fraud, financial disclosure fraud, penny stock fraud, and broker-dealer regulation areas, generate a heavy caseload for the Legal Services Program. Further, the number of Rule 2(e) proceedings has and will continue to increase, based on the increasing number of cases being investigated by the Division of Enforcement that involve accounting and auditing matters. The adjudication workload has also significantly increased due to the larger number of appeals from decisions of administrative law judges and disciplinary actions for self-regulatory organizations.

In the counseling area, international issues involving transnational trading and information exchange have proliferated. Further, issues such as enforcement remedies, banking reform, and regulatory reform have generated Congressional interest and legislation that affect the Commission.

In FY 1990, the General Counsel created two separate branches to start addressing this workload--one to concentrate on Rule 2(e) litigation, and the other to handle international work, including litigation resulting from internationalization, preparation of legislative proposals for the Commission, and responses to Congressional initiatives and requests for information on international issues. The latter branch also will review cooperative agreements with foreign authorities, and advise the Commission concerning the complex issues raised by regulatory proposals relating to internationalization.

The additional services requested in 1991 will be used to increase the depth of these branches, as well as focus efforts on the increased level of litigation generally, and deal with the backlog of opinions and orders resulting from administrative appeals.

QUESTION:

Why are Section 2(e) proceedings against professionals consuming greater resources compared to past years?

ANSWER:

Rule 2(e) is used to address situations where an incompetent or unethical practitioner has the ability to inflict substantial damage to the investor's trust and confidence in the capital markets. The first reason that more resources are being consumed by Rule 2(e) cases is that the Commission is bringing more of these actions. While in absolute terms the increase has been small, accounting cases are very complex and tend to require a large commitment of staff time and other resources.

Since the Commission is more active in its pursuit of inadequacies in the conduct of the professionals who practice before it, the Commission in general has been requiring more from Rule 2(e) settlements than it has in the past. As the price of settlements rises, increasing numbers of Rule 2(e) cases are being litigated rather than settled. When litigation occurs, more staff time and resources are required than would be the case with a settlement. The General Counsel's decision to form a new Rule 2(e) branch in the General Litigation Group was a direct response to this increased need for resources.

Program Direction

QUESTION:

Are staff recruitment and turnovers still problems for the SEC?

ANSWER:

Yes, staff recruitment and turnover are growing problems for the SEC. In 1989, the turnover rate for staff attorneys was 13% overall and approximately 12% in

Washington, D.C. Turnover rates for other professionals were 15% for accountants, 19% for computer specialists, and 25% for secretaries. These turnover rates are in excess of government-wide averages.

Attorneys comprise the largest single professional group in the Commission. In order to recruit and retain qualified attorneys, the SEC must compete with private sector law firms, corporate legal departments, and other federal financial regulatory agencies. Private sector salaries for securities lawyers are significantly higher than those offered by the SEC. Due to OPM pay restrictions and job classifications, the Commission simple cannot offer the competitive starting salaries and future salary increases that attract and retain outstanding attorneys.

The most serious pay problem long run may be the enormous salary disparities between the salaries offered by the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, National Credit Union Administration, and other federal financial agencies, which have been exempted from federal pay ceilings. A GS-15 lawyer at the Commission, for example, has a maximum salary of $76,900, while the FDIC pays as much as $84,000. The General Counsels at the FDIC and other financial agencies have total compensation nearly double that of the Commission. Over time these enormous disparities will make it difficult for the Commission to maintain its traditional staff excellence.

QUESTION:

Detail the OMB reductions to the SEC 1991 request.

ANSWER:

Impact of OMB Mark on SEC FY 1990 Request

	Positions	Staff years	$ (000)
New positions	- 354	- 266	-14,023
ADP comparability to Edgar technology			- 5,000
Reduced average employment		- 40	- 2,203
Inflation			- 1,606
OMB estimated savings from GSA installation of FTS-2000			- 913
Restoration of 60 staff years lost in 1990		- 10	- 500
Net other			- 683
TOTALS	- 354	- 316	-24,928

Program Impact in Positions

SEC Program	Requested of OMB	Approved by OMB	Diffrence
Full Disclosure	656	578	- 78
Prevention & Suppression of Fraud	947	845	- 102
Supervision & Regulation of Securities Markets	393	342	- 51
Investment Management Regulation	386	323	- 63
Legal Services	170	154	- 16
Economic & Statistical Research	32	28	- 4
Program Direction	368	328	- 40
TOTAL	2,952	2,598	- 354

The funds provided by OMB are sufficient to support the requested 2,598 positions.

QUESTION:

Describe the budget impact on the SEC if responsibility for regulating all financial products or only stock-index options were transferred from the CFTC.

ANSWER:

Such action would result in minimal cost to the SEC; however, the exact amount is difficult to gauge without knowing the specific details. For example, whether stock index futures would be regulated as securities, or would remain subject to the Commodities Exchange Act, would affect personnel needs. The SEC would not expect to use more people than the CFTC uses. The entire responsibility might be handled with as few as 47 additional staff positions at an estimated cost of $3.5 million.

QUESTION:

Provide a full description of the negative $120 thousand inflation request.

ANSWER:

The negative $120,000 inflation request is based on two cost increases totalling $793,000, less a reduction of $913,000. The specific items involved are:

Rental costs imposed by GSA	$ 693,000
Staff transportation & travel expenses	100,000
Subtotal	$ 793,000
Less: FTS-2000 cost savings imposed by OMB	(913,000)
Total inflation request	$(120,000)

QUESTION:

What share of the securities market is held by "pension" funds?

ANSWER:

The SEC does not regulate pension funds. Therefore, this information is not readily available from the SEC. Based on data contained in the Federal Reserve Board's Flow of Funds (September, 1989), pension funds held approximately $840 billion of U.S. equities (23.9%) as of June 1989.

TUESDAY, APRIL 3, 1990.

U.S. COMMISSION ON CIVIL RIGHTS

WITNESSES

ARTHUR A. FLETCHER, CHAIRMAN
WILFREDO J. GONZALEZ, STAFF DIRECTOR
MELVIN L. JENKINS, EXECUTIVE ASSISTANT TO THE STAFF DIRECTOR
MARY K. MATHEWS, ASSISTANT STAFF DIRECTOR FOR MANAGEMENT
GEORGE M. HARBISON, BUDGET OFFICER

Mr. EARLY. We will next consider the Fiscal Year 1991 budget request of the United States Commission on Civil Rights. The request for fiscal year 1991 is $10,152,000, an increase of $4,445,000 over the 1989 appropriated level. We will insert the budget justification details submitted in support of this request in the record at this point.

[The justifications follow:]

COMMISSION ON CIVIL RIGHTS

REQUEST FOR APPROPRIATION

FISCAL YEAR 1991

COMMISSION ON CIVIL RIGHTS

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GENERAL STATEMENT

The primary function of the United States Commission on Civil Rights is to provide the information and insights required in order that officials of the Federal government and the public may have both objective and expert evidence on the status of civil rights protection in this country. Thus, the charter establishing the Agency charges the Commission to investigate allegations that certain citizens are being deprived of their right to vote by reason of their color, race, religion, sex, age, handicap, or national origin, or by reason of fraud.

Second, the Commission is mandated to study and collect information on legal developments or developments in the administration of justice that constitute discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin. This second function is also the basis for the Commission's studying and collecting information on developments that generally constitute discrimination or denial of the equal protection of the laws.

Third, the Commission is charged with appraising, evaluating and reporting on the effectiveness of the statutes and policies of the Federal government with respect to discrimination or denials of equal protection of the laws under the Constitution.

Finally, the Commission is required to serve as a national clearinghouse of information on civil rights, especially on discrimination and denial of equal protection of the laws, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice.

Eight Commissioners, four appointed by the President and four appointed by the Congress, determine policy for the Agency. A full-time Staff Director, also appointed by the President with the concurrence of a majority of the Commission, is responsible for the day-to-day conduct and administration of the Commission's affairs.

Ultimately, the Commissioners of the Commission on Civil Rights have the responsibility for determining research and information requirements of the Agency. For example, passage of Federal civil rights or related legislation may prompt the Commissioners to decide that a major enforcement study to determine the effectiveness of a new statute is desirable. Thus, the Commission completed The Immigration Reform and Control Act: Assessing the Evaluation Process, which was released in July 1989. This was its first statutory report since 1985. A second statutory report, Medical Discrimination Against Children with Disabilities was issued at the end of FY 1989. This was the culmination of a long-term project that was begun in 1985.

Since the work of the Commission is paralleled by the 50 State and District of Columbia Advisory Committees (SACs) which serve as the "eyes and ears" cf the national Commission on the State and local levels, their reports and briefing memoranda are included in the itemization of the Agency's research and information-gathering activities. In addition to these functions, the SACs monitor potential or actual threats to civil rights at the State and local levels, and disseminate information contained in Commission and State Advisory Committee reports.

LEGISLATIVE AUTHORIZATION OF THE COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is an independent, bipartisan agency, originally established by the Civil Rights Act of 1957 (P.L. 85-315). Public Law 95-444 extended the life of the Commission through Fiscal Year 1983 and extended the Commission's jurisdiction to include discrimination because of age and handicap. The Commission was re-established for a six-year term by the United States Commission on Civil Rights Act of 1983 (P.L. 98-183). The Commission was reauthorized and extended through the end of FY 1991 by the Civil Rights Commission Reauthorization Act of 1989 (P.L. 101-180).

The duties of the Commission, as enumerated in Sections 5 (a) and 5 (c) of P.L. 98-183, are as follows:

"Section 5 (a) The Commission shall ---

"(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

"(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

"(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

"(4) serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice; and

"(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of the Presidential electors, Members of the United States Senate, or the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

LEGISLATIVE AUTHORIZATION OF THE COMMISSION ON CIVIL RIGHTS

"Section 5 (c) The Commission shall ---

submit reports to the Congress and the President at such times as the Commission, the Congress, or the President shall deem desirable."

COMMISSION ON CIVIL RIGHTS

Appropriation

Congressional appropriation for FY 1990............	$5,707,000
Budget estimate for FY 1991........................	$10,152,000
Increase.....................................	$4,445,000

APPROPRIATION LANGUAGE

Federal Funds

General and special funds:

Salaries and Expenses

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, [$5,707,000] $10,152,000. (The Departments of Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act, 1990.)

COMMISSION ON CIVIL RIGHTS

SUMMARY OF CHANGES

	1991 Request	
	Full-time Equivalent Employment	Amount
Summary of Changes:		
Appropriation 1990..................	66	$5,707,000
Adjustments to Base and Built in Changes:		
Nonrecurring Costs: Benefits for former personnel.....		...
Adjustments for inflation...........		66,852
Total Adjustments to Base...........		66,852
FY 1991 Base................................		$5,773,852
Program Increases:		
Personnel compensation and benefits.	46	$1,295,289
Program increases for nonpersonnel object classifications, related to personnel changes...................		$3,082,859
Total Program increases....	46	$4,378,148
Total appropriation requested................	112	$10,152,000

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COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES

PROGRAM AND FINANCING (in thousands of dollars)

	1989 ACT	1990 EST	1991 EST
Program by activities:			
00.01 Direct program......................	5,682	5,707	10,152
01.01 Reimbursable program................	...	...	...
10.00 Total obligations...............	5,682	5,707	10,152
Financing:			
25.00 Unobligated balance lapsing..........................	25	...	...
39.00 Budget authority	5,707	5,707	10,152
Budget authority:			
40.00 Appropriation.......................	5,707	5,707	10,152
Relation of obligations to outlays:			
71.00 Obligations incurred net............	5,682	5,707	10,152
72.40 Obligated balance, start of year...................	719	423	423
74.40 Obligated balance, end of year.....................	(423)	(423)	(753)
77.00 Adjustments in expired accounts.....	(36)	...	...
89.00 Outlays.............................	5,942	5,707	9,822

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COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES

Object Classification (in thousands of dollars)

		1989 ACTUAL	1990 ESTIMATE	1991 ESTIMATE
	Personnel Compensation			
11.1	Full-time permanent	2,666	2,874	3,905
11.3	Other than full-time permanent	492	357	494
11.5	Other personnel compensation	76	50	94
11.9	Total personnel compensation	3,234	3,281	4,493
12.1	Personnel benefits: Civilian	497	511	706
13.0	Benefits for former personnel	55	58	65
21.0	Travel & transportation of persons	358	222	612
22.0	Transportation of things	25	50	50
23.1	Rental payments to GSA	658	665	1,035
23.2	Rental payments to others	76	77	202
23.3	Communications, utilities, and miscellaneous charges	230	250	330
24.0	Printing and reproduction	106	125	355
25.0	Other services	293	408	1,227
26.0	Supplies and materials	88	50	216
31.0	Equipment	62	10	861
99.0	Subtotal, direct obligations	5,682	5,707	10,152
99.9	Total obligations	5,682	5,707	10,152

COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES

Personnel Summary

	1989 ACT	1990 ACT	1991 EST
Total number of full-time permanent positions..............	66	71	114
Total compensable workyears:			
Full-time equivalent employment....................	73	66	112
Full-time equivalent of overtime and holiday hours.....	...	...	...
Average ES salary........................	76,897	73,688	81,122
Average GS grade..........................	10.82	10.95	10.70
Average GS salary.........................	38,656	39,014	32,988
Average salary of ungraded positions......	...	...	...

COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES

DETAIL OF PERMANENT POSITIONS

	1989 ACT	1990 EST	1991 EST
ES-6	...	1	1
ES-5	1	1	1
ES-4	1	1	1
ES-3	1	...	...
Subtotal	3	3	3
GS/GM-15	7	8	15
GS/GM-14	6	7	7
GS/GM-13	17	17	25
GS-12	9	8	18
GS-11	2	7	8
GS-10	...	...	...
GS-9	6	5	5
GS-8	...	...	...
GS-7	5	5	14
GS-6	4	4	4
GS-5	2	2	10
GS-4	4	4	4
GS-3	1	1	1
Subtotal	63	68	111
Ungraded	...	...	...
Total permanent positions	66	71	114
Unfilled positions, end of year	4	0	0
Total permanent employment, end of year	62	71	114

ACCOMPLISHMENTS - FY 1989

In February 1989, the Commission reviewed its program. The major focus of the review was the appropriateness of continuing with projects that were underway or planned, in light of the FY 1989 appropriations and the civil rights scene. As a result, because of the continuation of very limited staff and budgetary resources, several studies that had been planned for fiscal years 1989 or 1990 were dropped, and a higher priority was placed on other studies. The projects dropped included Hispanic isolation in public school enrollment, civil rights policy in the workplace, student discipline, racial discrimination in the administration of justice, education vouchers and minorities, racial and ethnic discrimination in housing, and congressional exemptions from civil rights laws. No work had been done on these projects.

Statutory Reports

In FY 1989, the Commission completed two statutory reports. None had been issued in over four years.

Monitoring of Implementation and Enforcement of the Immigration Reform and Control Act of 1986

The extensive study originally planned was dropped in February 1989. Later in the year, the Commission undertook a more narrow study, which resulted in the first statutory report since June 1985. The Immigration Reform and Control Act: Assessing the Evaluation Process was released in July 1989. A revised version, which incorporated material on the GAO's hiring audit, was issued in September 1989. This project was accomplished in record time.

Federal Protections for Handicapped Infants. A second statutory report, Medical Discrimination Against Children with Disabilities, was issued at the end of FY 1989. This was the culmination of a long-term project which began in 1985.

Incomes of Americans

The Economic Status of Americans of Asian Descent: An Exploratory Investigation was released to the public in October 1989. It garnered considerable interest.

Research on the economic status of black women was completed. A draft report was written and presented to the Commissioners for their review.

Research began in earnest in late summer 1989 on the economic progress of Hispanic groups in the United States. (The start was delayed because staff had been assigned to other projects.)

Other studies on economic status that had been planned or contemplated, including focuses on gender differences, minority youth, mobility strategies, and family income differences, were cancelled.

Asian Civil Rights Issues in the 1990s

Roundtables were held in Houston (May), New York City (June), and San Francisco (July) to hear the views of Asian Americans on civil rights issues affecting them. The day-long sessions drew over 60 speakers representing most Asian American ethnic communities and varying occupations. Plans called for a follow-up report, incorporating additional research and field work, to begin in FY 1990.

Validity of Testing in Employment and Education

Considerable background research was completed, and a consultation was held in June 1989 on identifying biases in test construction. Interviews were done with staff in the Department of Education.

Financial Aid and Minority Student Enrollment

In February 1989, the Commissioners decided that this study, which will look at discriminatory factors in financial aid for college students, should be delayed until FY 1990.

Civil Rights Enforcement at Federal Agencies

The Commission began to refocus on Federal enforcement of civil rights laws. A preliminary review was made of the Department of Education's Office for Civil Rights. Links have also been reestablished with other Federal agencies that the Commission is mandated to monitor. Budgetary and staffing data were collected on the relevant agencies.

Civil Rights Aspects of Public Health Policies and Initiatives to Control Aids

Progress on this project was stopped when staff working on it resigned and no new staff could be hired, which was due to the limited budget. It was determined that the expenditure of resources on other efforts should be a greater priority. However, the transcript of the hearing held in 1988 was prepared for publication.

Enforcement of the Indian Civil Rights Act

Staff began writing the report on this subject, based on the hearings held in Washington, D.C; Portland, Oregon; Flagstaff and Phoenix, Arizona; and Rapid City, South Dakota; and on additional legal research.

Intimidation and Violence: Racial and Religious Bigotry in America

A revision of the Commission's statement on this topic was prepared for the Commissioners. Also, a subcommittee held a briefing on racial and religious tensions and bigotry on college and university campuses.

Other Activities, Including State Advisory Committee (SAC) Support, Complaints, Requests for Information, and House Counsel Functions.

State Advisory Committee (SAC) Support

In FY 1989, 27 SAC reports were submitted to the Commissioners. This was nearly double the number (14) in

FY 1988. Six briefing memoranda were also submitted for review. The backlog of older SAC reports was virtually eliminated. Nearly two-thirds of the SACs held projects. Bigotry and violence, age discrimination, immigration reform, the administration of justice, and civil rights issues affecting American Indians were among the diverse subjects examined by the SACs.

Complaints

A toll-free number was provided for the first time for the public to call in complaints. This new number was publicized and we have received many calls. During the fiscal year, the Commission received 1,373 complaints; all but 46 had been processed by the end of the year. Forty-two percent of all the complaints were in the area of the administration of justice (including 161 petitions concerning the incarceration of Dr. Elizabeth Morgan and 63 Operation Rescue/police brutality complaints).

Requests for Information

In response to requests, some 6,850 publications were sent out. Other requests for information, not tabulated, were handled by telephone or letter. The library, for example, loaned an average of about 80-100 items a month to the public and had about 20 visitors and 15 telephone calls daily. Some 45 Freedom of Information and/or Privacy Act requests were also handled.

House Counsel and Legal Analysis Function

Staff prepared analyses for the Commission of: Richmond v. Crosson; and the background for a resolution adopted in January 1989, recommending that the Supreme Court not overturn Runyon v. McCrary. Staff also continued to perform legal sufficiency reviews of publications as well as reviews to ensure that publications do not contain defamatory, degrading, or incriminating statements. The Commission's FOIA and sec. 504 regulations were revised for Commissioner approval.

Civil Rights Update and New Perspectives

The Commission published 6 issues of the newsletter Civil Rights Update. One issue of New Perspectives was published; it generated so much interest that all of the copies printed have been distributed. No other issues were published owing to resources going to other priorities.

Miscellaneous Reports, Meetings, and Briefings. A number of publications were in various stages of preparation that will report on consultations and briefings that the Commission held during FY 1989. These include the Los Angeles Forum on "Changing Perspectives on Civil Rights" and the companion forum in Nashville, the consultation on testing, and the briefing on campus tensions. Other briefings during the year were the IRCA review in March and the administration of justice briefing in September. The latter was convened in September 1989 to gather information on alleged police misconduct in the context of public nonviolent civil rights demonstrations.

Administrative/Management Programs

The Commission made significant progress in correcting serious deficiencies, including internal control problems, that had been noted by GAO and OPM. Substantial improvement has been made in the personnel management, payroll, budget and finance, and procurement programs. For the first time in at least 5 years the Commission conducted an internal control assessment and review required by the Federal Managers' Financial Integrity Act and OMB Circular A-123 (revised). An 18-page report on the Commission's progress was submitted to the President and the Congress on December 28, 1989.

PLANS FOR FISCAL YEAR 1990

In February 1989, the Commission adopted several new projects, intended to be started in FY 1990. These included parental choice of schools, and discriminatory obstacles to career advancement of minorities and women. These projects were in addition to those already planned for this fiscal year, for example, on voting rights, redistricting, discrimination against the elderly, and access to transportation for persons with disabilities. These decisions were made before the appropriations level for the year was known. In light of the actual appropriations for FY 1990 and the replacement of half of the Commissioners because of terms expiring, it is anticipated that changes will occur in the program of record.

Incomes of Americans

A draft report on the economic status of black women has been presented to the Commissioners for their review.

Research is being conducted on the economic progress of Hispanic groups in the United States.

Asian Civil Rights Issues in the 1990s

Roundtables were held by the Commissioners during FY 1989 in Houston, New York City and San Francisco to hear the views of Asian Americans on civil rights issues that affect them. As a followup to the roundtables, additional research and field work began in November 1989, and a report will be prepared for the Commissioners to review.

Validity of Testing in Employment and Education

Research work is continuing on this project. Agency visits are underway.

Financial Aid and Minority Student Enrollment

Work is scheduled to begin on this project which will look at discriminatory factors in financial aid for college students.

Civil Rights Enforcement at Federal Agencies

This will be an area of renewed emphasis for the Commission during FY 1990. Links will continue to be established with Federal agencies that enforce civil rights laws. The focus of these efforts is dual: ongoing monitoring of developments and evaluation of performance. In the evaluation area, a project will be proposed that will look at a major subject area.

Civil Rights Aspects of Public Health Policies and Health and Initiatives to Control Aids

The transcript of the hearing held in 1988 is being printed.

Enforcement of the Indian Civil Rights Act

A draft report will be prepared on this subject based on hearings held in Washington, D.C.; Portland, Oregon; Flagstaff and Phoenix, Arizona; and Rapid City, South Dakota; and additional legal research by Commission staff.

Intimidation and Violence: Racial and Religious Bigotry in America

The briefing on racial and religious tensions and bigotry on college and university campuses will be prepared for publication. A revised statement on this subject is before the Commission for consideration.

Other Activities

State Advisory Committees (SACs)

The SAC for each state and the District of Columbia will conduct at least two activities during FY 1990. The remaining backlog of old SAC reports will be eliminated.

Complaints

The Commission will continue using the toll-free hotline to receive complaints.

Requests for Information

The Commission will continue to serve as a national clearinghouse on civil rights information. The library will continue to loan materials to the public and respond to visitors and telephone calls.

Miscellaneous Reports, Meetings and Briefings

Work will be completed on a number of publications which are in various stages of preparation and will report on Commission consultations and hearings. These include the Los Angeles forum, and its companion forum in Nashville, on "Changing Perspectives on Civil Rights"; the consultation on testing and the briefing on campus tensions. Implementation of the Immigration Reform and Control Act will continue to be monitored, with stress on GAO's evaluation of the relationship between discrimination and employer sanctions.

Administrative/Management Programs

The Commission will continue to focus on required improvements and enhancements of the administrative/management programs, including personnel management, payroll, budget and finance, procurement and administrative services programs. Followup will continue on the Commission's 5-year Management Control Plan which was developed and implemented as a result of the vulnerability and risk assessments and internal control reviews that were conducted pursuant to the requirements of the Federal Managers' Financial Integrity Act and OMB Circular A-123.

PLANS FOR FISCAL YEAR 1991

The U.S. Commission on Civil Rights' proposal for FY 1991 reflects the President's intention to begin to systematically restore the Commission to full strength. Thus, the major emphasis in FY 1991 will be focused on reestablishing the Commission's presence in the ten Federal regions.

The Commission was reduced from ten to three regions in FY 1987. The proposed increase in full-time equivalent positions will provide for staffing in the seven new regional offices and increasing personnel in headquarters to support the regional office expansion.

The Commission will also increase its efforts in the areas of monitoring and reporting on the effectiveness of civil rights enforcement activities by agencies of the Federal government.

During late FY 1989 and through part of the first quarter of FY 1990, the Commission was faced with reauthorization and funding uncertainties and anticipated vacancies in four (out of eight) Commissioner positions. As a result, it was not possible for the Commission to complete the FY 1991 planning process on other projects. It is anticipated that the final determinations will be made in the near future. Information will be provided to you when the final decisions are made.

Mr. **Early**. Testifying today on behalf of the Commission is the Honorable Arthur A. Fletcher, Chairman of the Commission.

Since this is your first appearance before the Committee, we will insert a copy of your biographical sketch into the record.

[The information follows:]

BIOGRAPHY OF ARTHUR A. FLETCHER

Arthur A. Fletcher was appointed chairman of the U.S. Commission on Civil Rights in February 1990. A Republican, he was appointed by President Bush to serve a term expiring in November 1995.

Mr. Fletcher is president of Arthur A. Fletcher and Associates, a management consulting firm with offices in Maryland. He served at the White House as deputy assistant to the President for urban affaris from 1976-77; as president of Arthur A. Fletcher and Associates, Inc., 1973-76; and as executive director of the United Negro College Fund, 1972-73. He was an alternate delegate to the 26th session of the United Nations General Assembly in 1971; and was an assistant secretary of labor for employment standards at the U.S. Department of Labor from 1969-71.

Mr. Fletcher was a special assistant to the governor of the State of Washington in 1968-69; a member of the city council in Pasco, Washington; and an employe relations consultant at the Hanford Atomic Energy facility, 1967-68. He was a public school teacher in Berkeley, California, 1961-65; a reports control manager at Aerojet-General Corporation in Sacramento, California, 1957-61; and an assistant director for the public information office of the Kansas State Highway Department in Topeka, 1955-57.

In 1954 while teaching in a rural elementary school in Kansas, Mr. Fletcher helped raise money for the pending *Brown* vs. *School Board of Topeka* desegration suit, which was successfully fought up to the United States Supreme Court. In the early 1950's, Mr. Fletcher played professional football with the Los Angeles Rams and the then Baltimore Colts until an injury cut his career short.

Mr. Fletcher was born in Phoenix, Arizona on December 22, 1924. He served in the United States Army from 1943-45, and received his B.A. degree from Washburn University in Topeka, Kansas in 1950. Mr. Fletcher and his wife Bernyce reside in Washington, D.C.

GENERAL STATEMENT

Mr. **Early**. Mr. Fletcher, you may proceed with your statement in any manner you would like, as far as a summation or whatever.

Mr. **Fletcher**. Thank you, Mr. Chairman.

Mr. Chairman, members of the Committee, I am thankful that I have regained my health sufficiently to be here with you as scheduled. As you probably know, in the last 4 months I have gone through two triple bypass operations, so I am still getting my strength back.

Mr. **Early**. If you feel as good as you look, you are in good shape.

Mr. **Fletcher**. Well, I wish I did.

With me today is Wilfredo Gonzalez, who is our new staff director. We also have Mr. Melvin Jenkins, the executive assistant to the staff director; Mary Mathews, the assistant staff director for management, and George Harbison, our budget officer.

I want so much to acquaint you with the present position of the U.S. Civil Rights Commission as I see it, in particular the need for the increased level of appropriations. I strongly support the President's request for $10,152,000 for fiscal year 1991. I believe this increased appropriation is one of the steps to be taken to reinvigorate the Commission and to enable it to do a better job.

The Commission has met once, at the start of March, since I and two other new members were appointed in late February. We plan our next two meetings to review the Commission's program. After that review, I will be able to tell you more about the specific ways in which the Commission will carry out the job assigned to it by the Congress and by the President. Because we are a collegial body, only after we have jointly agreed on a program will I be able to speak for my fellow commissioners.

Now I can today tell you briefly the direction in which I would like to see the Commission go. The first goal that I will highlight is the one for the Commission to become independent and bipartisan. That will be of great importance to the credibility and the effectiveness of our work.

Second, I believe that the Commission should seek to reduce discrimination to a level of insignificance, so that an individual trait such as race or sex or a handicap circumstance is essentially an afterthought of little consequence with respect to employment, education, housing, and business opportunity decisions or concerns.

Third, I think the Commission must seek to set the civil rights agenda for the nineties, focusing on the issues of central significance for our country. One such issue I think is driven by changing demographics.

Our work force will increasingly be minority and female. We must provide equality of opportunity to the members of these groups—in education, in training, in employment, and in business opportunities—so that they can build lives of quality consistent with America's promise. Otherwise, the events of this new decade will overtake us. Time is of the essence, and mistakes will no longer be tolerated. There must be a collective undertaking by the Administration, the Congress, and the Commission to salvage our competitive position in the global economy before we self-destruct.

In setting the civil rights agenda, which I think should be driven by economic opportunity, I hope the Commission will be able to engage the interest and participation of the business community, the education community, the religious community, and the leadership of organized labor, as well as traditional civil rights constituencies.

The fourth goal that the Commission should set is for it to be recognized as an authoritative think tank for civil rights, and for its work to be used when decisions are made that affect the equality of opportunity and the equality of treatment. I do not want our reports to gather dust on the shelves somewhere as monuments to good efforts with no results.

The increased budget for the Commission will help us begin to restore the agency. A focus will be on increasing our regional presence and the support of our State Advisory Committees, to create a bottom-up approach in determining the issues of our culturally diversified society.

These citizen committees are valuable sources of information and credibility to the Commission. They bring to us in Washington the perspective of our country's geographical diversity, as well as the talents of their members. The committees need greater staff support and opportunities to meet more often. An increased funding level will help us provide that.

We are providing some modest additional support this fiscal year to the regional efforts, in the form of one additional staff person in each of the three regional offices. Our current resources, however, will support only a minimal increase in the Advisory Committee activities.

A second focus for this increased budget will be to rebuild the capability of the Commission to monitor the civil rights enforcement activities of the Federal Government. We are starting to rebuild this fiscal year by hiring two additional staff members to create a basic unit. However, full-fledged reviews—for example, of the enforcement of the 1988 Fair Housing Amendments—will be difficult to do without additional resources to support the travel, the surveys, and perhaps a hearing.

In a time of pressing and competing needs, why should the Congress give the Commission more money? I believe the answer is unmistakably clear. Despite the very great strides we have taken, the task of the civil rights movement has only just begun. I penned that in. It is not finished, by a long shot. You and the people of this country know that.

Changes are occurring in the demographics of our work force. At schools and on campuses throughout the country, student bodies are increasingly diverse. Our youth must be exposed to cultural variety and adaptation, and to the history of the events that have forged our society. The U.S. Commission on Civil Rights has contributed to the steps already taken, and with your support can establish a real beginning, emphasized by the dynamics of economics, in overcoming the civil rights issues of the nineties.

That is my prepared statement. I would be glad to respond to questions.

[The prepared statement of Mr. Fletcher follows:]

UNITED STATES
COMMISSION ON
CIVIL RIGHTS

1121 Vermont Avenue, N.W.
Washington, D.C. 20425

STATEMENT OF
THE HONORABLE ARTHUR A. FLETCHER
CHAIRMAN, U.S. COMMISSION ON CIVIL RIGHTS
FOR THE SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES
OF THE COMMITTEE ON APPROPRIATIONS

April 3, 1990

Mr. Chairman and members of the subcommittee, I am thankful that I have regained my health sufficiently to be able to be here with you as scheduled. With me today are Wilfredo J. Gonzalez, Staff Director; Melvin L. Jenkins, Executive Assistant to the Staff Director; Mary K. Mathews, Assistant Staff Director for Management; and George M. Harbison, Budget Officer.

I want so much to acquaint you with the present position of the U.S. Commission on Civil Rights as I see it, in particular, the need for an increased level of appropriations. I strongly support the President's request for $10,152,000 for fiscal year 1991. I believe this increased appropriation is one of the steps to be taken to reinvigorate the Commission and to enable it to do a better job.

The Commission has met once, at the start of March, since I and two other new members were appointed in late February. We plan at our next two meetings to review the Commission's program. After that review, I will be able to tell you more about the specific ways in which the Commission will carry out the job assigned to it by the Congress and the President. Because we are a collegial body, only after we have jointly agreed on a program will I be able to speak for my fellow Commissioners.

I can today tell you briefly the directions in which I would like to see the Commission go. The first goal that I will highlight is for the Commission to be independent and bipartisan. That will be of great importance to the credibility and effectiveness of our work.

Second, I believe that the Commission should seek to reduce discrimination to a level of insignificance, so that an individual trait such as race or sex is essentially an afterthought of little consequence to an employment, educational, or housing decision.

Third, I think that the Commission must seek to set the civil rights agenda for the 1990s, focusing on issues of central significance for our country. One such issue, I think, is driven by changing demographics. Our work force will increasingly be minority and female. We must provide equality of opportunity to the members of these groups--in education, training, and employment--so that they can build lives of a quality consistent with America's promise. Otherwise, the events of this new decade will overtake us. Time is of the essence and mistakes will no longer be tolerated. There must be a collective undertaking by the Administration, the Congress, and the Commission to salvage our competitive position in the global economy before we self-destruct.

In setting the civil rights agenda, which I think should be driven by economic opportunity, I hope that the Commission will be able to engage the interest and participation of the business community, the education community, the religious community, and the leadership of organized labor, as well as the traditional civil rights constituency.

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The increased budget for the Commission will help us begin to restore the agency. A focus will be on increasing our regional presence and the support of our State Advisory Committees to create a bottom-up approach in determining the issues of our culturally diversified society. These citizen committees are valuable sources of information and credibility for the Commission. They bring to us in Washington the perspective of our country's geographical diversity, as well as the talents of their members. The committees need greater staff support and the opportunity to meet more often. An increased funding level will help us to provide that. We are providing some modest additional support this fiscal year to the regional effort, in the form of one additional staff person in each of the three regional offices. Our current resources, however, will support only a minimal increase in Advisory Committee activity.

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In a time of pressing and competing needs, why should the Congress give the Commission more money? I believe that the answer is unmistakably clear. Despite the very great strides we have taken, the task of the civil rights movement is not finished. You and the people of this country know that. Changes are occurring in the demographics of our work force. At schools and campuses throughout this country, student bodies are increasingly diverse. Our youth must be exposed to cultural variety and adaptation and to the history of the events that have forged our society. The U.S. Commission on Civil Rights has contributed to the steps already taken and with your support can establish a real beginning, emphasized by the dynamics of economics, in overcoming the civil rights issues of the nineties.

FY 1991 FUNDING INCREASE

Mr. **Early**. Chairman Fletcher, after being held constant at a level of approximately $5.7 million for the past 3 fiscal years, the Commission is requesting an increase of $4.4 million for fiscal year 1991. Since the reauthorization bill passed in November only extending the Commission's authorization until September, 1991, what has changed at the Commission to warrant this funding increase?

Mr. **Fletcher**. Well, I think what we have, in my view, is an administration that has indicated that by asking for a sizeable increase—we got a passback, we really didn't submit a budget to OMB, we got a passback—in my view and from my experience, when OMB positions themselves as they have, it indicates to me a clear intent, a new perspective, a clear intent that is far more in line with reality as to the mission of this Commission during the decade of the nineties.

So what we are saying and what my view is, is this, sir, and I made mention of it in the prepared statement: I think as Europe goes through the radical transition, if not revolution, that it is going through, and as this country goes through the same, and as we get ready to compete, if you will, in global markets, and compete with a work force the likes of which we have never had before, minorities and women and other ethnic groups, the mission of this Commission in terms of bridging the gap of differences so that we have a common objective with a common intent at our schools and our workplaces, the role of this Commission could never be more important.

This is the first time this country will ever depend on a work force that is other than dominated by white males. We have to develop a work force that has the capacity to forget its differences and compete here at home and abroad. If that is the case, then we need to go back—and that is why I mentioned bottom-up—we need to go back down to the bottom and get our committees, our committees functioning, giving them the support they need, so that we can begin to develop an agenda that not only speaks to the crisis of the moment but puts us on the track of developing that work force—I call it human capital—that makes it possible for us to compete the way we need to.

I think the people at the White House—and I can't speak for the President—but it appears to me that the people at the White House and OMB have a clear understanding of what the Commission's mission is, and on that basis they passed that amount back to us. It is going to be up to us now to organize and develop an agenda and strategies and tactics to demonstrate that not only can we use that money and use it well, but we may even need more in order to do the job that has to be done.

FUTURE OF COMMISSION

Mr. **Early**. But since there is still an uncertainty as to the future of the Commission beyond fiscal year 1991, would it not be more appropriate to maintain a steady level of funding until at least the administration's position on the direction of a legislative proposal is determined?

Mr. **Fletcher**. No, sir. I think it would send a bad signal to those who are waiting to see exactly what is going to happen to this Commission, and whether we are going to stay on a life support system—which is what I think we are on right now—and with a stay of execution for 22 months, to see if we can develop and implement a program that makes sense.

There is no question we need the Commission, and there is no question that it has a role and a mission to play. To stumble along with three regional offices, and I forget the number of States in each one of those regional offices, half-serving them and at the same time telling them that we are going to turn the corner and get involved in tomorrow, is just the wrong signal to send, sir.

FY 1991 PROGRAM ACTIVITIES

Mr. **Early**. But yet the budget justification material indicates that the final decisions on the fiscal year 1991 program activities have not been made. When can we expect to see a more complete justification for your 1991 funding levels?

Mr. **Fletcher**. Well, I think I indicated in my opening statement that one of the two things we are going to be doing at our very next meeting is to hold two sessions dealing with the kind of agenda that we need to develop, that will be in line with justifying the need for these funds that we have in this budget. We are going to hold two planning sessions, and let me expand on those for just a minute.

I have used the words "think tank." I used the words "think tank" in referring to the way I would like to see the Commission go. I had a reason for doing that. I have spent some time in the private sector with some of the major companies as a consultant, and a part of that was to participate and assist in developing their agendas. They do a lot of research and they look at the trends and they look at their resources. They look at their needs and they look at their opportunities, and then they develop an agenda and they develop programs that not only put them on top of tomorrow but possibly in front of it.

In our reviewing where we intend to go, I propose to do identically the same thing. I don't want to try to pull a program out of the air. Let me give you a couple of good examples.

Out on the West Coast where I came from not long ago, we are already beginning to see some of the small school districts in Oregon and California and Washington State, even in Minnesota, for an example, in which Asian youngsters—they never had an Asian problem before—increased numbers of Hispanic youngsters—they never had a serious problem in that area before—they are moving into those school districts, moving into those rural areas.

In this instance many of the teachers, many of the school systems, have no idea what kind of cultural clash these new youngsters are going to create, their families, et cetera, et cetera. Yet we are going to hold them, those school systems and school districts, to a standard.

I think the Commission has a role to play. I think the Commission needs to be able to get in and forewarn school systems that this is the trend in terms of population where your county and your district is concerned. These are the kinds of youngsters you are going to have in your classroom, in ever increasing numbers and here are the kinds of things you need to anticipate.

To have these committees all over the country, helps to keep the Commission informed, instead of sitting back and waiting for a problem to happen. The Commission needs to go in ahead of the problem and say here are the kinds of things you need to begin to anticipate, as we go through not only a demographics change but a change in our population, these are the kinds of problems you are going to be faced within your school system.

I will give you one more example. Just before I had the last heart attack I was up in Minnesota, I happened to have the opportunity to speak to 50 Russian educators at Mankato State College. The Russian educators were there to talk to American educators, and they were there for a couple of reasons.

One, they want to send youngsters from Russia into the Mankato area and into our small State universities and colleges because they wanted those youngsters educated in rural areas and when they get through being educated in rural areas in the U.S., they want them to go back to rural areas in Russia.

What they are getting ready to do is produce a problem for Mankato State and other small State colleges and universities in terms of how do you deal with this new constituency. I think the Civil Rights Commission has the responsibility, again, to get ahead of the curve and be able to go in and offer advice, guidance, direction, et cetera, from our expert vantage point.

So what I am talking about, again, is when we finish with our next two meetings, we will come back before you or however you want us to do it, and lay out to you as well as to the Office of Management and Budget the direction we intend to go with the Commission.

Mr. Early. Thank you.

Mr. Smith.

JUSTIFICATION OF FY 1991 REQUEST

Mr. Smith. Well, I think your goal is laudatory. There is no doubt about your Commission being essential, but I don't remember us ever having a budget before us that was just a figure out of the air. I mean, what we have here is just a figure out of the air, saying you will fill in the details later, and we are probably going to mark the bill up here before the end of May. We need something more to justify——

Mr. Fletcher. I don't quite think it is completely out of the air, sir.

Mr. Smith. Where did it come from?

Mr. Fletcher. When the decision was made to restore the Commission to its original configuration, take it from the three regional offices that they have now back to the ten, and then the necessary staffing and support that would be required to do that——

FY 1991 STAFFING LEVELS

Mr. **Smith**. Well, we don't have before us the number of staff and each individual position that will be needed here.

Mr. **Fletcher**. Do we have that?

Ms. **Mathews**. Yes, we do have that.

Mr. **Smith**. Do you have a breakdown, because we don't have anything.

Ms. **Mathews**. Yes, we do.

Mr. **Fletcher**. Yes, sir, we do.

Ms. **Mathews**. Would you like us to bring a copy up?

Mr. **Smith**. Bring a copy, if you have it.

Mr. **Early**. Do you know if that is in our justification? Do we have it?

Ms. **Mathews**. This particular sheet is not.

Mr. **Early**. It is not. I do not see it in the justification. Fine. We will put it in the record.

Mr. **Smith**. We will put it in the record. You see, we need these kinds of things to look at.

[The information follows:]

. ON BOARD END OF YEAR - Full Time Permanent Positions

unit	FY 1989	FY 1990	FY 1991	
OSD	5	5	5	
CONG PA	3	3	3	
SOL	1	2	2	'89 - '90 = secty trans from OSD
F/B	3	3	3	
PED	5	5	5	
AS/CD	7	7	7	
ODSDM	2	2	2	
ERD	5	7	7	'89 - '90 = Raufu + CR analyst
CRD	5	7	7	'89 - '90 = Reg. Dir. + CR analyst
WRD	6	7	7	'89 - '90 = CR analyst
RPC	3	3	3	
OPPR	7	8	8	'89 - '90 = Chun detail
OGC	9	8	9	'89 - '90 = secy. vacancy
CRE	1	4	4	'89 - '90 = 2 CR analysts + Sims detail
	62	71	72	

New-Hires FY 1991: total 42				Grade:	
Atlanta			5	15,13,12,7,5	Director
Denver			5	15,13,12,7,5	CR Analyst
Seattle			5	15,13,12,7,5	CR Analyst
Dallas			5	15,13,12,7,5	Secretary
New York			5	15,13,12,7,5	Clerk Typist
Chicago			5	15,13,12,7,5	
Boston			5	15,13,12,7,5	
ODSDM			3	11,9,5	B/F,AS,B/F
CRE			2	12,13	CR analysts
OGC			2	12,12	Atty Advisors
			114		
vacant	4				
	66				

....

vacances FY 1989: Solicitor (Gillers)
Schedule C (Eastman)
Schedule C (Jeffrey)
CRE CR Analyst

				Grade:
New-hires FY 1990:	OSD Schedule C	(vacant)	1	14
	OSD Schedule C	(vacant)	2	13
	Solicitor	(vacant)	3	15
	CRE CR Analyst	(vacant)	4	12
	Staff Director		1	ES 6
	CR Analyst ERD		2	11
	CR Analyst CRD		3	11
	CR Analyst WRD		4	11
	CRE CR Analyst		5	11

PROPOSED NEW HIRES

Mr. **Smith.** Now I know this here, this is the first I have seen it, just right now: 42 positions, new hires. Eight of them are GS-13. Those are probably political appointments.

Mr. **Gonzalez.** No, sir.

Mr. **Smith.** Well, the easiest thing to appoint is a GS-13. I had a lot to do with appointing people in the Johnson Administration, and I know if you want to get a political appointee in, just have a GS-13 position. That is all you need and you can usually get him in.

You have GS-5s and GS-7s. They have to pass a test and so forth; and then GS-14s, you have seven of those.

You didn't have anything to do with putting this together, though. You told me that OMB is the one that made up this list?

Mr. **Gonzalez.** No, we did, Mr. Chairman.

Mr. **Smith.** You did?

Mr. **Gonzalez.** Yes, sir.

Mr. **Smith.** Why do you have so many GS-13s?

Mr. **Gonzalez.** Well, we don't think there are many GS-13s, sir. What we have is a kind of a cloning of the existing positions in the regional offices, the three regional offices, and then projecting them into seven new regional offices to get back to the original ten, so that in terms of the makeup of what a regional office should consist of, we anticipate five positions in each regional office to begin with, and each of them would have a GS-13 in each office. All of these positions, by the way, are all General Service civil servants and not political appointees.

Mr. **Smith.** Yes, I know, but there are some positions, some grades, that are easier to qualify people under. If you show that you have been a manager or have had some experience with five or six people underneath you, it is much easier to qualify for a GS-13 than it is an 11 or a 12. I don't see any GS-11s on here. Now to be an 11, you have to show some skills. Why are there no GS-11s?

Mr. **Gonzalez.** I have been instructed that in essence what is being projected is a GS-13, but the position would be identified as an 11-12-13, and that would allow us a field of flexibility in order to attract the appropriate candidates.

Mr. **Smith.** But this sheet you have here doesn't show GS-11s on it at all. It shows GS-13s.

Mr. **Gonzalez.** I think for the exercise when the sheet was developed, it was using the highest grade applicable to a particular position. We could certainly——

Mr. **Smith.** I think we need more information than we have now.

COMMISSION MEETINGS

Now you have had difficulty down there. I am aware of that. How many meetings have you attended?

Mr. **Fletcher.** I have only attended one.

Mr. **Smith.** Just one. Was it harmonious?

Mr. **Fletcher.** Yes.

Mr. **Smith.** Over the last six or eight years this has been a very difficult Commission for us to work with. We have tried to be cooperative in every way.

One year we passed exactly what they wanted, and it was on the floor, everybody voted for it. It was a civil rights bill, and they voted for it. Then in frustration, because they had done such a poor job in drafting the law, when it came back to the House some of them said, "Well, so we can send a message, tell them what a poor job we did, we want you to vote against the bill now," including Legal Services, Juvenile Justice, everything else that was in the same bill, you know.

I mean, that is the kind of problem we have had over the last six or eight years trying to fund this Commission, so we have done everything we can to be cooperative, and we want to be cooperative, but we do need the information on where you are going and what it will be used for. We don't want to do what happened back in the Nixon Administration in setting up the EEOC by Executive Order, where it was just set up with mostly political appointees.

Well, it is a substantial increase you are talking about. We need to know what direction you want to go in and how you are going to do it. This Committee has always been cooperative and worked with you.

Did you have something you wanted to say?

Mr. GONZALEZ. No, sir. I think that we are on the same agenda. What we are talking about here is a new chairman at the Commission with two new commissioners. Another commissioner is to be named within the next 30 days. That will give us basically a new Commission. I just came on board as of Friday, effective Friday of last week, as the new staff director.

We are talking also about a new administration that certainly is sensitive to the kinds of problems that have existed over the last decade, let's say. Certainly we feel a little bit—we certainly understand some of the skepticism in terms of having to come back to you and say once more, "Give us an opportunity," but we really think that we have the right team now and the right attitude, and we are really committed to carrying out the legislative mandate of the Commission.

Mr. SMITH. Well, let me make it clear, I am not necessarily against political appointees, except I am against putting in a political appointee and pulling him in under civil service. I mean, maybe you need a political appointee in each one of these offices. I don't know whether that is so or not, but if you do, I mean, just be up front with it.

Mr. GONZALEZ. Well, I can assure you as the staff director, there will not be a political appointee in any of these offices. Not only that, but a political appointee cannot answer to a civil servant, so since we have a civil servant at the top of each of the regional offices, you would not have any political appointees working on the staff.

Mr. SMITH. Well, when I say political appointee, I don't mean a political appointee that is removable. I mean they get there because of politics.

Mr. FLETCHER. By a political appointee, you mean someone who understands the political process.

Mr. SMITH. Yes, that's right. That's right, and understands how to get there, and then he is there, and then he wants to be blanket-ed in. If there is a change in administration, he doesn't want to be affected.

Mr. **Fletcher**. I understand now.

Mr. **Smith**. Okay. Thank you. Well, I think your goals are worthy. I sympathize with the problems you have. We will try to cooperate.

Mr. **Fletcher**. Well, I can say to you that our first meeting was very harmonious, and it appears there is an effort to make sure that each of the new Commissioners, plus those that have been held over, have an opportunity to give some input into what the new agenda will be.

STATE ADVISORY COMMITTEES

Mr. **Smith**. One more question: Have you had time to look at your relationship with the State Advisory Committees?

Mr. **Fletcher**. Not to the degree that I want to, but yes, I have.

Mr. **Smith**. Do you have anything to say about that? Do you think the relationship has been right or proper, or do you think there should be some changes.

Mr. **Fletcher**. Well, throughout most of the past decade the State Advisory Committees were not properly serviced from this level because they didn't have the resources to do it.

Mr. **Smith**. Right.

Mr. **Fletcher**. We have had some State Advisory Committees who almost ceased to meet because they didn't have the necessary support system to get it done, so you can't really make a judgment, I don't feel I could make a fair judgment on the basis of how effective or ineffective they were.

EXPANDING ROLE OF SACS

Mr. **Smith**. Well, I guess in some sense what I am asking is, do you think they have a more important role to play than they have been playing, or not?

Mr. **Fletcher**. Oh, I tried to make that point in the statement when I used the term "bottom-up." I think they are our bottom-up contact, down where the action really is, and I see them growing in importance, in terms of not only helping us but being able to provide you with information you need as to what is going on in your congressional districts with reference to the population changes that I touched on a few moments ago. I think they are very, very important.

SUPPORT TO SACS IN FY 91

Mr. **Early**. Following up on Chairman Smith's question, what level of support are you currently providing to the State Advisory Committees as far as—you know, that is one of the areas in your 1991 request where the amount of support to be offered to the State Advisory Committees is drastically expanded. Do you have anyone that has been there, that knows what they are providing now?

Mr. **Gonzalez**. Yes, sir. As a matter of fact, right now the requested increase is to provide greater resources to those State Advisory Committees. At present we have three regional offices, each dealing with anywhere from 16 to 18 states, which limits State Advisory Committee meetings to at most twice a year. In our 1991 projections we have a minimum of four meetings per year per State Advisory Committee.

I made it a point—although I just came on board officially Friday, but I have been with the Commission now for about 3 weeks—I made it a point, in order to demonstrate good faith and put our money where our mouth is, to immediately go out and attend two State Advisory Committee meetings. The last one was held in Helena, Arkansas. We are talking about Phillips County, which is one of the ten poorest counties in America, and they were dealing with race relations in the Delta.

Certainly I was impressed by the 11-member committee. I was impressed by the volunteerism, by the level of commitment, and by those individuals telling me that they were looking forward to the breath of fresh air that they felt, after having heard that Art Fletcher was named as chairman and seeing some of the changes that were being done by the administration for the Commission, in order to go back to them and use them as the resource that had not been used in quite a while.

Mr. EARLY. Fine. I have a few other questions as far as dealing with some responses last year to the record. What we will do, Mr. Chairman, we will include them in the record and then you can give us answers for them. Okay?

Mr. FLETCHER. Yes, sir.

Mr. EARLY. Thank you for your testimony.

Mr. FLETCHER. Thank you. With that, we will adjourn.

[The following questions were submitted to be answered for the record:]

The following questions were submitted to be answered for the record:

Questions Submitted by Chairman Smith

Commission Authorization

Question: In November 1989, the Commission's authorization was extended via a stop-gap authorization bill through the end of fiscal year 1991. As the new Chairman, have you considered any proposals for changes to the authorization beyond 1991?

Answer: As was stated in Chairman Fletcher's testimony, he believes the U.S. Commission on Civil Rights must seek to set the nation's civil rights agenda for the 1990s, focusing on the issues of central significance for the nation. This agenda should be driven by issues related to economic opportunity. In order to do this, the Commission must be independent and bipartisan. It must also be respected and perceived as authoritative, credible and effective by all sectors. For example, the reports the Commission issues should be integral to the decision-making process on equality of opportunity. In order to accomplish these goals, the Commission needs to be reauthorized for a sufficient amount of time. A ten-year reauthorization should give the Commission the opportunity to work with all sectors to reduce discrimination to a level of "insignificance" in the next century. It is critical to restore the Commission to a level that will ensure it has the opportunity to successfully and effectively carry out its mission.

Commission Vacancies

Question: How many Commissioner positions are currently vacant? Are you anticipating other Commissioner positions to expire in the near future?

Question: Do you expect these vacancies to be filled in a timely manner?

Answer
To Both
Questions: There is one Commission member vacancy. The terms of Commissioners Allen, Berry and Buckley expire in December 1992, and that of Commissioner Ramirez in January 1993. The Commission would expect that the President will appoint a member to fill the current vacancy within the next 30 days. With respect to future vacancies, we expect that the President and the Congress would seek to fill those positions expeditiously.

FY 1991 Budget Request

Question: After being held constant at a level of approximately $5.7 million for the past three fiscal years, the Commission is requesting an increase of $4.4 million for fiscal year 1991. Since the reauthorization bill passed in November only extended the Commission's authorization until September 1991, what has changed at the Commission to warrant this funding increase?

Answer: As Chairman Fletcher mentioned during his testimony on April 3, 1990, the Commission needs to make a real beginning toward establishing and achieving the civil rights agenda for the 1990's. The Commission needs to be reinvigorated and to be funded at a level that will let it begin now to achieve that goal. In order to accomplish this, it is essential to take a "bottom up" approach by restoring the Commission's regional office structure, which is the primary support for the fifty-one State Advisory Committees (SACs). The civil rights agenda must begin at that level in our culturally diversified society if it is to succeed. The SACs reflect the full range of geographical and cultural diversity which will be essential in providing input to the establishment of the civil rights agenda. The Administration's budget reflects that emphasis. A major portion of the proposed $4.4 million increase will be to re-establish seven regional offices and at best this will only cover the cost for the most basic level of operations for field activities. The attached chart (Attachment #1) reflects the costs associated with the rebuilding of the Commission's regional office structure. With respect to the Commission's level of funding during the last three fiscal years, it must be noted that the Commission's appropriation has not remained constant, in terms of real dollars. In each of these fiscal years, the Commission's appropriation required absorption of pay increases and inflation factors. Consequently, since 1987, the Commission's funding in terms of purchasing power has been effectively reduced.

FY 1991 Funding Level

Question: Since there is still uncertainty as to the future of the Commission beyond fiscal year 1991, would it not be more appropriate to maintain a steady level of funding until at least the Administration's position on the direction of legislative proposals is determined?

Answer: As was stated in the answers to earlier questions, the Administration and Chairman Fletcher feel it is critical to begin an all out effort to achieve the stated goals for the Commission in order to establish and carryout the civil rights agenda for the 1990's. The Administration proposed a six (6) year extension of the authorization for the Commission providing a clear message on its support and commitment; followed by its increased budget and staffing request. A continued funding at present level would send a negative signal, by the Congress, to the public as to the seriousness of it and the Commission to address the issues at hand. Further, the Administration is confident that during the next 18 months they and the Congress will be able to reach an agreement on a long-term extension of the Commission that will enable the agency to accomplish its statutory mandate.

FY 1991 Program Activities

Question: Your budget justification materials indicate the final decisions on the FY 1991 program activities have not been made. When can we expect to see a more complete justification for your 1991 funding levels?

Answer: The Commission did not have a sufficient number of Commissioners until February 1990, to achieve a quorum. The first meeting of the members was on March 2, 1990. At that meeting, the Commissioners, sitting as a collegial body agreed that during the next two meetings in April and May, they would set an agenda for the remainder of FY 1990 through FY 1991. When that process is completed in May 1990, Chairman Fletcher has promised that he will present a summation of Commission endorsed projects to the Committee.

Support for State Advisory Committees (SACs)

Question: One area emphasized in your 1991 budget request is the amount of support to be offered to SACs within the expanded budget request. What level of support are you currently providing to the SACs?

Answer: The funds allocated by the Commission for regional programs in FY 1989 and FY 1990 support the activities of the State Advisory Committees (SACs). The actual amount spent in FY 1989 for regional programs was $2,067,000. This covered the costs associated with Regional office staff and Headquarters support staff efforts devoted to Regional activities. Also included were travel, space, printing, communications, other services, etc. During FY 1989, there was renewed emphasis placed on SAC activity, resulting in 27 SAC reports presented to the Commissioners, nearly doubling the previous number of reports (14) for FY 1988. In FY 1990, one additional civil rights analyst is being recruited for each of the Commission's three (3) regional offices in order to better support the SACs. The expectation is that the FY 1990 expenditures for regional programs will be at least at the same percentage of the overall appropriation as in FY 1989.

Additional Positions

Question: Your 1991 request provides for an additional 46 employees. Are all of the additional personnel for the seven proposed "new" Regions, or will the existing three Regions and Headquarters staff be increased as well? Please provide a complete breakdown for the record.

Answer: The request that we submitted asks for an additional 43 positions. Our request also reflects an aggregate of 46 FTEs. The difference between the 43 new full-time permanent positions and the 46 FTEs is the projected filling of non-permanent positions. The attached chart shows how the new positions will be distributed during FY 1991 (Attachment #2). Most of the new positions will be in the seven Regional offices but a few are for proposed Headquarters positions either to provide support to the expanded Regional staff or to increase the staff resources in the agency's monitoring function.

FY 1989 Staffing Levels

Question: In the justifications for your 1990 budget, the Commission indicated that staffing levels for the fiscal year that just ended--1989--would be 96 full-time permanent positions. This year's justifications indicate that your 1989 actuals were only 73 FTE. Why did you not achieve the staffing levels the Commission anticipated?

Answer: The Commission, during FY 1989, was faced with continuing authorization and appropriation uncertainties and the anticipation of an extended leadership transition since Commissioner vacancies would not occur until early FY 1990. Given these circumstances, it was difficult to recruit and fill existing or projected vacancies. Thus the emphasis during FY 1989 was stability in both the programmatic and the administrative/management functions. In February 1989 the Commissioners reviewed pending and ongoing projects and cancelled some, deferred others and reprioritized the rest. This resulted in the first two statutory reports being issued in over four years. The number of SAC reports nearly doubled over the previous fiscal year (27 vs. 14). Further there was an emphasis on and the assignment of staff resources to resolve long standing internal control deficiencies that had been noted by the Generl Accounting Office and the Office of Personnel Management. These issues were systematically and effectively addressed during FY 1989. (See attachment #3 Annual Assurance Letter to the Speaker of the House dated December 28, 1989). In FY 1989, the Commission estimated that it would fill an additional 23 full-time permanent positions, making a total of 96 (73 in 1988 plus 23) on-board at year's end. However, the actual number on-board at the end of fiscal year in 1989 was 66. Consequently, the estimate of full-time equivalents (FTEs) for FY 1989 was 83 but the actual was 73 FTEs. The appropriation remained the same in FY 1988 and FY 1989, but as we previously stated the Commission was required in FY 1989 to absorb the 4.1 percent pay raise and the 3.9 percent inflation factor. Thus there was a resulting decrease in the Commission's real appropriation and a corresponding inability to fund the new positions requested. As a result, the Commission only funded seven (7) new hires.

Earmarks

Question: In response to a question for the record last year, then-Chairman Allen indicated that he felt there should be some restrictions placed on Commissioner billable days, although the appropriations bill was not then considered the appropriate place to impose these restrictions. Chairman Fletcher, what is your position on this earmark?

Answer: The Administration's position is that the earmarks on the Commission's appropriations should be eliminated. Chairman Fletcher supports that position.

FY 1991 Funding for Monitoring

Question: The proposed bill language deletes all earmarks for the Commission, including the $700,000 for monitoring. What is the amount designated for monitoring in your fiscal year 1991 request?

Answer: As was stated in Chairman Fletcher's testimony on April 3, 1990, the Commission has provided for a modest increase in the staff assigned to the Civil Rights Evaluation Unit which is responsible for the majority of monitoring activities. In FY 1990, two civil rights analysts were hired and two more are proposed for FY 1991. As was stated previously, a significant portion of the $4.4

million proposed increase will be used to rebuild the Commission's regional office structure. It is anticipated that the expenditure of funds for monitoring in FY 1991 will be at a comparble percentage level to that specified by the current monitoring earmark.

Questions Submitted by Congressman Dwyer

Immigration Reform and Control Act

Question: In both your statement and your justifications you discuss completion of a report entitled *The Immigration Reform and Control Act: Assessing the Evaluation Process.* How do the findings in this report mesh or compare with the report the GAO recently released which found that employer sanctions have resulted in widespread discrimination against foreign workers?

Answer: In its second report on the Immigration Reform and Control Act (IRCA), issued in November 1988, the GAO concluded that it could not determine whether employer sanctions had caused a "pattern of discrimination." Upon examining the law's legislative history, and the data and methodology used by GAO to evaluate the discriminatory effects of sanctions, the Commission concluded the contrary: sanctions had caused *at least* a "pattern," if not a "widespread pattern," of discrimination against citizens and authorized workers. The Commission's report provided both legal and methodological guidance for assessing empirical evidence of discrimination stemming from employer sanctions. The Commission believes that GAO's finding of a "widespread pattern of discrimination" in its third report is strongly supported by the new evidence collected by GAO. GAO's finding appears to be derived from a legal and methodological basis that is quite consistent with the Commission's. Recently, Chairman Fletcher has written the Department of Justice and the Equal Employment Opportunity Commission, suggesting that the Task Force, provided for in IRCA, be established to deal with the GAO findings. Further, the Chairman has indicated his willingness to serve as Chairman of that Task Force. This serves as an example of the Chairman's and the Commission's commitment to being an independent, bipartisan and reinvigorated agency.

American Disabilities Act

Question: How would passage of the Americans with Disabilities Act affect the workload at the Commission? Would it increase or decrease your responsibilities?

Answer: Generally speaking, passage of the Americans with Disabilities Act (ADA) would not increase the Commission's responsibilities. In the area of handicap discrimination, 42 U.S.C. § 1975c(2) and (3) mandates that the Commission gather information and appraise laws and governmental policies concerning denials of equal protection or discrimination based upon handicap. The agency has historically interpreted this mandate to permit it to examine not only existing laws and governmental policies in the area of handicap discrimination but also the absence of laws and policies necessary to remedy such discrimination. Thus, for example, long before the ADA was introduced, the Commission had planned to conduct hearings on access to mass transportation for persons with disabilities, an issue which the ADA covers, to determine whether legislation was needed. On the other hand, enactment of the ADA would not decrease the Commission's responsibilities. Should the act be passed, instead of devoting resources to the need for legislation to remedy denials of equal protection based upon handicap, the Commission would focus resources on the monitoring of proper implementation and enforcement of the act.

Age Discrimination Activities

Question: Since incidence of age discrimination is on the rise --due to the increased aged population, what accomplishments or work is the Commission doing in this area?

Answer: In 1987, the Commissioners approved a project, to consist of a consultation/hearing, staff research and a report, that would examine age discrimination in employment and in the provision of health care. Work on this project, which was to commence in October 1989, has not begun due to limitations on budget and staff resources. With respect to the project component on age discrimination in employment, the Commission had planned to assess whether standards of review used by Federal and state courts and administrative agencies in reviewing age-based classifications were sufficient or whether a more stringent standard of review was desirable. For the health care component, the Commission had planned to examine whether medical services for the elderly are substandard for reasons which may include quality-of-life considerations. At its next meeting, the Commissioners will review this and other existing projects with a view toward devising its programmatic agenda for fiscal year 1991. Some of the Commission's State Advisory Committees have looked at aspects of age discrimination. The Delaware Advisory Committee issued a report in September 1989 on Nutrition Services for Minority Elderly; Census Data and Hispanic Elderly; and State Grant-in-Aid Program. Also in September 1989, the Arkansas Advisory Committee issued Civil Rights Concerns of Older Americans.

Aspects of age discrimination were also touched upon as part of a broader focus on the state of civil rights by three other Advisory Committees in Civil Rights Issues in Wyoming (10/88), Civil Rights Issues in Maine (5/89), and Civil Rights Issues in Kentucky (1/89).
These reports are generally based on community forums, where informed and interested persons present information and viewpoints. A report is currently being prepared on a forum on age discrimination in employment that was held in November 1989 by the Vermont Advisory Committee. Further, the Utah Advisory Committee has scheduled a forum for May 1990 on services for the aging population.

Prioritizing Commission Studies

Question: You note on page 12 of your justifications that progress on a report entitled Civil Rights Aspects of Public Health Policies and Initiatives to

Control AIDS had to be stopped due to shortage of staff and insufficient resources. This seems short-sided to me, given the growing AIDS crisis. Every agency and commission is obviously faced with stringent budget constraints. How does the Commission determine which studies are a priority?

Answer: Annually (usually at the beginning of the calendar year) as part of the Commission's program planning process, the Commissioners meet with the Staff Director and the senior staff to review the status of pending projects. The review includes an assessment of progress on projects that are actively assigned and those that were previously approved but have not been assigned due to such factors as limitations on budgetary and staff resources or changes in program priorities. In February 1989, the Commissioners conducted a full-scale review of the status of all previously approved projects; many of which had been approved when the Commission's resources were substantially larger. The purpose of the evaluation was to determine: (1) which should continue; (2) which should be dropped; and (3) what the priority on the remaining projects for completion should be. These decisions resulted in a more effective and productive use of the limited staff and budgetary resources of the Commission during FY 1989.

Toll-free Hot-line Calls

Question: On page 13 of your justifications you discuss the establishment of the toll-free hotline this year. You also mention that you received many calls and comments regarding the incarceration of Dr. Elizabeth Morgan. What kind of position or response would the Commission take on such a controversial matter?

Answer: Reflecting the Commission's mission and a desire not to impede or interfere with the normal workings of enforcement agencies, it is the Commission's policy not to investigate individual cases of alleged civil rights violations. Typically Commission staff forward complaints of civil rights violations to the appropriate governmental agency for action.
Occasionally, the Commissioners personally transmit complaints (with letters of

support/opposition etc.) to the responsible Federal agencies for action. In rare instances, the Commissioners also have sought additional facts about a case in order to assure themselves that the case is being handled appropriately by the responsible agencies.

In the case of Dr. Morgan, then-Chairman William B. Allen forwarded materials to the Department of Justice and to the appropriate House and Senate committees with a request that they examine her case.

At ment #1

REGIONS vs HEADQUARTERS FY 1989, FY 1990, FY 1991 (at the time of the Galleys)
(in Thousands)

	FY 1989				FY 1990				FY 1991			
	Regions	Hdqtrs	Total	% Regions	Regions	Hdqtrs	Total	% Regions	Regions	Hdqtrs	Total	% Regions
-time permanent	809	1,857	2,666	30.35%	1,009	1,865	2874	35.11%	1520	2385	3905	38.92%
r than full-time	29	463	492	5.89%		357	357	0.00%		494	494	0.00%
r personnel compensation		76	76	0.00%		50	50	0.00%		94	94	0.00%
sonnel benefits	140	357	497	28.17%	172	339	511	33.66%	259	447	706	36.69%
efits former personnel		55	55	0.00%		58	58	0.00%		65	65	0.00%
vel of persons	132	226	358	36.87%	106	116	222	47.75%	395	217	612	64.54%
sportation of things		25	25	0.00%		50	50	0.00%		50	50	0.00%
al payments GSA	94	564	658	14.29%	95	570	665	14.29%	383	652	1035	37.00%
al payments to others	12	64	76	15.79%	26	51	77	33.77%	18	184	202	8.91%
unications, util tes, misc.		230	230	0.00%		250	250	0.00%	70	260	330	21.21%
ting	39	67	106	36.79%		125	125	0.00%	57	298	355	16.06%
r services	66	227	293	22.53%	22	386	408	5.39%	66	1161	1227	5.38%
ies	2	86	88	2.27%	6	44	50	12.00%	5	211	216	2.31%
ment		62	62	0.00%		10	10	0.00%	284	577	861	32.98%
OBLIGATIONS	1,323	4,359	5,682	23.28%	1,436	4,271	5,707	25.16%	3057	7095	10152	30.11%
ING:												
tions	19	47	66	28.79%	24	47	71	33.80%	59	55	114	51.75%
	18.41	54.59	73	25.22%	22.41	43.59	66	33.95%	39.72	72.28	112	35.46%

NEW HIRES FY 1991 Attachment #2

office	position	grade	number
REGIONS:			35 (7 regions x 5 staff)
Altanta	Regional Director	15	
Denver	Civil Rights Analyst	13	
Seattle	Civil Rights Analyst	12	
Dallas	Secretary	7	
New York	Clerk/Typist	5	
Chicago			
Boston			
ODSDM:			3
B/F	Budget Analyst	11	
B/F	Secretary	5	
AS/CD	ADP Technician	9	
CRE			2
	Civil Rights Analyst	13	
	Civil Rights Analyst	12	
OGC			3
	Attorney Advisor	12	
	Attorney Advisor	12	
	Secretary '90 vacancy	7	
		TOTAL	43

Attachment # 3

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

December 28, 1989

The Honorable Thomas S. Foley
Speaker of the House of
  Representatives
Washington, DC 20515

Dear Mr. Speaker:

I am pleased to report that the U.S. Commission on Civil Rights' internal control and financial management systems, taken as a whole, provide reasonable assurance that the objectives of the Federal Managers' Financial Integrity Act (FMFIA) have been achieved. As we reported to you on December 31, 1988, the Commission began in the middle of FY 1988 some initial internal control program efforts which have continued through FY 1989. As a result, the Commission has made substantial progress in correcting significant internal control program deficiencies primarily in the administrative and financial management functions but also in the program operations. These deficiencies occurred in large part because of substantial budgetary cuts, funding and authorization uncertainties and resultant staff turnover.

In the last 12-18 months, competent experienced staff have been hired for the key managerial and professional positions in the Commission's administrative and financial management functions and in its program operations. These officials have provided program direction by rebuilding the Commission's administrative operations to bring us into compliance with governmentwide laws and regulations and sound management practices. This has led to a degree of stability in our senior career staff that the Commission has not enjoyed in recent years. Significant progress has been achieved in rebuilding many of the administrative management functions during this period. The enclosures to this letter will provide more specific detail on the internal control problems that were identified and what our efforts have achieved. The discussion that follows will highlight the Commission's major accomplishments during the last 18 months. We have addressed the 3 high risk areas that the Office of Management and Budget (OMB) cited for the Commission in its November 8, 1989 letter. Deficiencies in "hiring controls" are covered in great detail in the information provided on the Commission's personnel management program. Record keeping is discussed in each of the items covered, as appropriate. Accordingly, travel management is discussed separately.

1. Personnel Management Program. The first area addressed was the Commission's personnel management program which had been the primary focus of the General Accounting Office (GAO) reports in 1986 and in May 1988 and a followup audit by the Office of Personnel Management (OPM) in March 1988. Neither the GAO nor the OPM reports were favorable toward the Commission's personnel management program during the period of their reviews (1983 through calendar year 1987). They noted substantial deficiencies. Each of the areas cited have now been systematically addressed and corrected. All personnel

actions, including appointments, are in full accordance with OPM and internal agency requirements and are consistent with budgetary constraints. Further, current internal procedural and documentation requirements ensure that this should continue. In addition, many other personnel management program initiatives were implemented. In July 1989, we invited representatives from OPM's Office of Agency Compliance and Evaluation (ACE) to meet with us so that we could share both our program accomplishments and our observations on how the small agency environment affects the implementation and operation of governmentwide administrative management programs. In September 1989 the Commission received a letter from the Assistant Director for ACE stating in part that "...it appears that the Commission has come a long way in dealing with problems that were identified in our installation assessment and in improving the overall quality of personnel services." He further stated that the "...discussion of the special concerns of the small agencies was very helpful..."

2. Procurement Management. The next area of focus was the procurement function which was separated organizationally from the financial management function in the summer of 1988, thus eliminating a long-standing material weakness. In order to establish a viable procurement function, the following first-time actions were taken by the Commission during FY 1989: two highly qualified and experienced government managers were hired to manage the administrative services operation (one of these managers has an in-depth knowledge of and experience in government procurement regulations and procedures); a comprehensive internal memorandum on requisition and procurement procedures, including sample formats, was issued; blanket purchase agreements were issued for a wide variety of standardized services and supplies which resulted in savings in administrative overhead and in other costs; and an internal tracking and record keeping system for procurement actions was established. Additionally the Commission took action to be in compliance, in FY 1989 for the first time, with the Office of Federal Procurement Policy's quarterly reporting requirements.

3. Financial Management. In September 1987, the Commission contracted with the U.S. Department of Agriculture's National Finance Center (NFC) to provide a core financial/accounting system and an integrated personnel/payroll system. During FY 1989, other initiatives were implemented to address serious financial management program deficiencies. These included: development of a reliable internal record of obligations; significant improvement in the accuracy of an internal record keeping system to monitor agency compliance with Congressional earmarks on appropriations; and the establishment of and collection of written delegations of authority and sample signatures for the approval of all financial transactions including requisitions, personnel actions, travel, and payments from the imprest fund. In the spring of 1989, the Commission's first and only fully qualified government accountant was hired to head up the budget and finance functions. During FY 1989, the Commission issued, for the first time in a number of years, a current fiscal year operating plan and developed at the appropriate time an operating plan for FY 1990 and a

projected budget for FY 1991. While significant progress has been made in the Commission's financial management programs, this will continue to be an area of primary focus in FY 1990.

4. Travel Management. Another area cited by the OMB as a high risk area based on previous GAO reports is travel management. Our assessment during FY 1989, confirms that travel continues to be a high risk assessable unit. We have made some progress, however, in addressing travel related deficiencies. In FY 1989, a travel policy and procedures document, with sample completed travel vouchers, was issued to provide detailed guidance to employees and managers. The new Budget and Finance Division Chief who was hired in the spring of 1989 is a well qualified government accountant and an expert in the Federal Travel Regulations. Other travel related areas will need to be addressed in FY 1990. The National Finance Center's (NFC) travel voucher form which has been used by the Commission does not request or require significant documentation or justification in support of the travel claim in several respects. This is one issue that will be addressed either by form redesign or procedural reinforcement internally during FY 1990. In the interim, we are in the process of taking internal measures to supplement the information on the NFC form.

5. Vulnerability and Risk Assessments, Internal Control Review and Audit Followup. In the late summer of 1989 the Commission conducted an internal control assessment and review. This was the first time the Commission had conducted such a review in at least 5 years. To begin this process, a new Administrative Instruction, bringing us fully into compliance with OMB Circular A-123 (revised), was written and issued on internal controls. Subsequently, each organizational unit conducted vulnerability assessments through use of a comprehensive, standardized questionnaire. The Deputy Staff Director for Management (DSDM) was designated as the principal official responsible for internal controls and audit followup. The travel and time and attendance functions were designated as assessable units for each Commission office. Since reports are the main product of the Commission, the program offices and the regions also were required to conduct a vulnerability and risk assessment in this area. This effort produced two results: (1) the development of a Commissionwide 5-year Management Control Plan; and (2) the opportunity to test, informally, one internal control system (i.e. time and attendance procedures). As a part of that test, we also conducted an audit of the approval and use of compensatory time. We found that the Commission's existing procedures were adequate, but adherence, at the request and approval level, was somewhat inconsistent. While this test and audit did not result in the identification of a major nonconformance, it did point out that approving authorities needed to have a better understanding of their responsibilities. We have also substantially revised and documented the internal operating procedures on time and attendance during the last fiscal year to address the communications and understanding problems.

The whole internal control review process was very beneficial to all levels of Commission management. It served to educate and inform each supervisor and manager of his/her internal control responsibilities. Each Commission manager is involved in the process and internal control responsibilities have been incorporated in each performance plan. No material weaknesses or major nonconformances were identified; however, areas of high risk were found primarily in the travel and overall "payments" area, which includes: commercial, travel, miscellaneous and imprest fund payments. These functions have been assigned the top priority in FY 1990 under the Commission's Management Control Plan. We will also track progress in correcting internal control deficiencies. However, because the Commission is currently a very small agency with limited financial and staff resources, it will continue to be difficult to hire and/or to assign the required resources to the overall operation and evaluation of our internal control and audit followup programs.

6. Inspector General (IG) Act of 1988. The Commission, although not a designated entity, took actions to come into compliance with the revised IG Act. A memorandum was issued to all employees explaining: (1) the requirements of the IG Act; (2) the Commission management's commitment to the Act; and (3) where employees can report instances of potential waste, fraud, abuse and mismanagement. Further, a memorandum of understanding was completed with the Department of Agriculture's Office of Inspector General (OIG) to conduct audits of transactions submitted to or processed by the automated systems of the National Finance Center. The OIG will provide the Commission with audit reports and conduct audit followup and resolution.

7. Reports. As was mentioned above, reports are the main work product of the Commission. While there were some initial efforts in FY 1988 to rebuild and stabilize the Commission after the FY 1987 Reduction-in-Force, this did not become possible until later in FY 1988 when appropriation uncertainties were resolved and staff could be hired. As a result the report output was substantially reduced. Beginning in FY 1989, this trend was reversed. Reasonable stability was achieved. Internal coordination and review procedures were documented and issued. An organizational realignment was carried out to assure more effective and efficient operations in the program areas. The resulting productivity was exceptional. For example, the first two statutory reports, The Immigration Control and Reform Act: Assessing the Evaluation Process, and Medical Discrimination Against Children with Disabilities were issued since 1985. The report on the Economic Status of Americans of Asian Descent: An Exploratory Investigation was also issued. Two other reports were presented to the Commissioners for final review and approval. With respect to Regional program and State Advisory Committee (SAC) activity, the achievements have been even more notable. In FY 1988 there were 14 SAC reports presented to the Commissioners, and in FY 1989 there were 27 reports. Also, the backlog of older SAC reports was virtually eliminated in FY 1989. This is evidence of the fact that the Commission has come a long way in rebuilding both its internal administrative management operations as

well as its program areas. This also is evidence that the Commission has begun to achieve an overall management effectiveness and stability despite our very limited budgetary and staff resources.

The information provided documents current Commission management's dedication to and support of a meaningful internal control program which will result in a well-managed program. However, as a very small agency, our resources are limited to support this or any other program. The following examples, will illustrate the unique problems, we, as a small agency face: (1) the Commission is required to operate the same governmentwide administrative management programs as a large agency but the staff resources, in the context of our current budget, available to carry them out are 10-20% of that of the large agency; and (2) the mission and scope of the Commission's Regional programs and State Advisory Committees have not changed as a result of the FY 1987 budget cuts, meaning that we are required to carry out the same responsibilities with only three Regions instead of the ten we had prior to FY 1987. These very limited staff resources, make adherence to the GAO Standards for Control Techniques, especially separation of duties, extremely difficult. Staff in a small agency of necessity, must perform a wide variety of functions in order to carry out the work of the organization.

During my tenure as the Acting Staff Director, at the U.S. Commission on Civil Rights, I have had a personal commitment to achieving program, organizational and staffing stability. In the context of the Commission's very limited budgetary and staff resources, I believe we have made substantial progress in achieving that goal. Concurrent with accomplishing that objective has been the need to assure the integrity of both programs and internal administrative and financial management operations. This has been a critical priority for the Office of the Staff Director and for each office head and supervisor at the Commission. We recognize that achievement of these goals is essential to the Commission's success in carrying out its statutory mission.

Sincerely,

MELVIN L. JENKINS
Acting Staff Director

Enclosure #1

ADDITIONAL DETAIL
U.S. COMMISSION ON CIVIL RIGHTS
FY 1989 INTERNAL CONTROL PROGRAM

The purpose of this document is to provide more detailed information on the U.S. Commission on Civil Rights' internal control program and related efforts and accomplishments during the last 12-18 months. The areas addressed are: personnel management and procurement.

1. Personnel Management Program. As noted in the General Accounting Office (GAO) reports of 1986 and May 1988 and in the Office of Personnel Management (OPM) report of May 1988, a wide range of deficiencies in the Commission's personnel management program between 1983 and 1987 were identified. Beginning in 1988, with the appointment of a well qualified and experienced Director of Personnel and Equal Employment Opportunity and the hiring of qualified professional staff, a commitment was made by the Commission to rebuild its personnel management program in order to systematically address the deficiencies that had been identified. Attachment 2 provides specific actions that Commission managers have taken in response to GAO and OPM reports on the Commission's personnel management program. It documents the fact that the Commission has successfully addressed GAO and OPM concerns on its hiring programs. The information provided in Attachment 2 was prepared in April 1989. The Commission has accomplished the following in the personnel management program: (1) all staffing actions whether filled by temporary, competitive service, Schedule A or Schedule C, or under special emphasis programs are in accordance with all OPM requirements and all necessary documentation exists in support of the actions; (2) all eligible SES, GM and GS employees were appraised under OPM approved performance appraisal systems; (3) all FY 1989 awards were made in accordance with OPM requirements; and (4) the actions required by OPM in its case listing were completed. Both OPM required and budgetary controls on hiring actions are now in place and fully operational.

   The Commission's personnel management function covers such typical areas as recruitment, staffing, placement, position management, position classification, employee relations, labor management relations, employee benefits, health and safety programs, personnel security, employee and management development, employee recognition, performance appraisal and management, personnel processing, record keeping and reports. The following list of additional initiatives in the personnel area have been accomplished in the last 18-21 months. They demonstrate the Commission's effort in going beyond mere compliance with OPM or GAO requirements.

a. Procedures

(1). Personnel Action Requests: Instructions and sample formats for the most common actions were prepared and issued.

(2). EOD Orientation Checklist: This document was substantially revised and expanded.

(3). Documentation of Special Appointments: New forms were developed to inform appointees and document acceptance of temporary and intermittent appointments.

(4). Statements of Account: A format was developed in FY 1989 to more effectively monitor the Congressional earmark on the billable days available to the Commissioners and their Assistants. This also assisted these individuals in monitoring their own time.

(5). Tracking of the Review and Approval of Personnel Actions: A standard process was developed and implemented to ensure that all personnel actions are approved by budget and the appropriate management officials prior to being implemented.

(6). Review and Certification of Personnel Actions: An internal procedure was established to ensure proper documentation and certification of all personnel actions prior to entering into the NFC system. The preparation, review, certification and transmission functions were separated among the staff.

b. Programs

(1). Recruitment and Staffing Program: During this period, the Commission staff, at its peak in the spring of 1989, more than doubled. Appointment actions were in accordance with all OPM requirements. Qualification requirements were developed and documented for attorney appointments.

(2). Employee Development/Training Programs: There were limited training opportunities due to budgetary resources. However, arrangements were made with OPM's Training Center to receive discounts, based on short notice, for Commission employees at OPM classes when space was available.

(3). Special Emphasis and Employment Programs: The following programs were utilized to meet staffing needs: handicapped, stay-in-school, Veterans Readjustment Act, summer employment, student volunteer, and the Mayor's Youth Employment Program (summer and school year).

(4). Integrated Personnel/Payroll System: The conversion process to the National Finance Center's automated personnel, payroll and time and attendance systems which began in September 1987 was completed by the end of FY 1988. Completion involved the correction of a significant number of data entry errors that occurred at the time of conversion.

(5). Ethical Conduct for Federal Employees: Beginning in August 1988, an annual memorandum, along with a copy of the Office of Government Ethics pamphlet "How to Keep Out of Trouble," was prepared and distributed to all employees to inform them of their obligations. In early FY 1989, the Commission's Standards of Conduct Regulations were added to the new employee orientation package. Potential consultant/expert appointees were required to complete the conflict of interest form and have it reviewed by the Solicitor, prior to appointment.

(6). Debt Collection by Offset: Pursuant to the requirements of 5 CFR Chapter 550, Subpart K, agency regulations have been prepared for submission to OPM for review and approval.

Since the Commission is an extremely small agency with limited resources, the personnel management program carried out by a staff that is 10-20% of that of a large agency, has significantly more functions than might be found in a typical personnel office. These additional functions include: payroll, timekeeping, EEO, management and organizational analysis, drug-free workplace, and participation in legislative analysis. Further, unlike a large agency, the staff is required to develop all relevant policies and programs as well as implement, operate and evaluate them. The following is a brief summary of some of the accomplishments in these areas:

(a) The payroll and timekeeping functions are both part of the personnel management program; however, no individual employee has access to both automated NFC systems, thus avoiding a material weakness or major nonconformance.

(b) Procedures for the timekeeping function were documented and 3 new policy memoranda on time and attendance including leave usage, the flexitime program and compensatory time, were issued to all employees. All internal records related to timekeeping were consolidated in one place so that they can be periodically reviewed for overall continuing compliance.

(c) The Commission is now in compliance with EEOC and OPM reporting requirements on EEO program activities and is conducting an ongoing employee information program.

(d) The Commission's organization and functions were analyzed and based on that analysis an organizational realignment was effected in December 1988 designed to emphasize the Acting Staff Director's program priorities, to stabilize the agency's mission, and to ensure a more effective and responsive organization.

(e) A drug free work place program was developed, reviewed by and submitted to the Interagency Coordinating Group at the National Institute on Drug Abuse for final approval.

2. Procurement. In the summer of FY 1988, the procurement functions were separated from the financial management functions. This longstanding practice of combining the functions among the same staff and organization created a material weakness which was eliminated as a result of that action. The hiring of highly qualified managers with specific competency in procurement marked the first time, in a number of years, that the Commission had this kind of staff expertise available to run a professionally competent procurement program. The following are additional, noteworthy accomplishments:

(1) Requests for Procurement Action: Standardized and simplified procedures with sample formats, were prepared and issued to staff as guidance on preparing requests for purchase orders. A new requisition form was identified and utilized Commissionwide. New justification and documentation requirements were implemented. This resulted in substantial improvement in the quality and timeliness of purchase order actions.

(2) Coordination and Approval of Purchase Orders: New internal procedures ensured that requisitions were approved and certified by budget officials. The resultant purchase order documents were approved and signed by appropriate procurement officials. These processes provide for adequate segregation of duties in this functional area. This resulted in compliance for the first time in many years by the Commission with governmentwide procurement laws and regulations.

(3) Blanket Purchase Agreements (BPAs): During FY 1989, BPAs were issued for a wide variety of services and supplies, for the first time at the Commission. This resulted in a substantial reduction in administrative overhead for paperwork and staff time and in costs per item.

(4) Procurement Tracking System: For the first time a system was implemented to track the flow of requisitions and purchase orders. This resulted in improved accuracy and quality in the process.

(5) Procurement Integrity Certification of Procurement Officials: In FY 1989, three Commission officials attended training on prohibited conduct by procurement officials under the provisions of the Federal Procurement Policy Act. Certifications attesting to their understanding and adherence to the requirements of that Act were signed by all three officials.

(6) Office of Federal Procurement Policy (OFPP) Reports: In FY 1989, the Commission began, for the first time to make quarterly reports to OFPP. This reflected the viability of the Commission's procurement program.

(7) Congressional Earmark on Contracts: GAO reviewed the Commission's compliance with the earmark on mission-related contracts in the spring of 1988. They found that there had been no such contracts. The same was true in FY 1989.

Enclosure #2

U.S. COMMISSION ON CIVIL RIGHTS
MANAGEMENT ACTIONS IN RESPONSE TO ISSUES
RAISED IN OPM AND GAO REVIEWS

OFFICE OF PERSONNEL MANAGEMENT REPORT

On March 14-15, 1988, OPM officials conducted an audit of the Commission's personnel program by reviewing calendar year 1987 records. The OPM stated, "Our overall conclusion is that the Commission suffers from a lack of adequate personnel policies and procedures for carrying out day-to-day program responsibilities." OPM went on to say, "No doubt, the turmoil resulting from significant reductions in staff due to substantial budget cuts, along with the conversion process to a new automated personnel records system had significant impact on personnel operations." Issues addressed by OPM are summarized below along with corresponding Commission initiatives.

ISSUE #1 - Position Classification and Management

The delineation of a series of tasks and/or responsibilities into separate and distinct units serves as a foundation for actions relative to all other personnel management functions. As tasks are grouped into recognizable jobs, they are compared with governmentwide standards in areas such as complexity, variety, breadth, scope, etc. And these collective tasks are subsequently classified into an appropriate series of positions, with a corresponding title and rate of pay. In OPM's review of the Commission's 1987 records, they found that written descriptions of positions were either missing or out of date for most employees. They further stated that the Agency needed to establish procedures to require the periodic review and updating of position descriptions to ensure proper classification in the future.

USCCR INITIATIVES:

Policy and procedural documents have been prepared on: Position Classification and Position Management to address the development and periodic review of position descriptions. Accurate position descriptions have been prepared for all newly identified positions since the OPM visit and a comprehensive review of previously established positions is underway.

Issue #2 - Staffing

In OPM's review of merit promotion actions for FY 1987, they stated that available evidence demonstrated that all candidates were afforded proper consideration for Commission vacancies. They continued, however, to note that many action files contained incomplete documentation. They concluded that the Commission was in need of a revised merit promotion plan providing more detailed guidance on candidate evaluation and documentation requirements.

The need for more consistency in the documentation of consultant appointments was separately addressed, with particular emphasis on items such as descriptions of duties to be performed, pre-appointment certifications, and justifications for pay determinations by a specified USCCR official. OPM reminded the Commission also of the need for quarterly reviews on the use of consultants.

As a third aspect of OPM's review of the Commission's staffing program, they cited the lack of a current Federal Equal Opportunity Recruitment Program

(FEORP) and a Disabled Veterans Affirmative Action Program (DVAAP).

USCCR INITIATIVES:

A newly revised Merit Promotion Plan has been developed containing detailed procedures on the evaluation of applicants and the appropriate means of documentation to support such evaluations.

A separate procedural document has been issued on the use of consultant and expert appointing authorities specifying in considerable detail the various types of pre-appointment documentation required, and identifying the process for quarterly reviews of Commission appointments made under these authorities. Proper and complete documentation is now contained in all consultant and expert personnel files to demonstrate the appropriate use of these appointment authorities. Also, since the OPM audit, quarterly reviews of consultant and expert hiring actions have been conducted.

By virtue of initiatives taken by the Small Agency Council, on behalf of the small agencies, including the Commission, we are now in technical compliance with the OPM and EEOC requirements regarding the FEORP and DVAAP programs.

ISSUE #3 - Performance Management

OPM noted that the Commission did not have an approved Performance Management System for the development of elements and standards and the appraisal of employee performance during 1987 for General Schedule (GS 1-15) and Prevailing Rate employees. While the Agency did have an approved performance rating plan for employees covered by the "merit pay" system (GM 13-15, typically mid-level managerial or supervisory positions), the severe staff reductions during the period of June 1986 to September 1987 resulted in the Agency's inability to develop performance plans for FY 1987 and the related inability to derive performance ratings. Consequently, the Commission requested and received a one-time exception from OPM in this procedural area. As a consequence of these circumstances, most Commission staff members did not have performance standards by which to measure their performance, and thus did not have performance appraisals at year end. OPM further cited two specific irregularities in connection with the performance awards given during FY 1986, in addition to questioning the performance award rates reflected in the Commission's only approved performance plan. Finally, OPM noted that the Commission did not have an Employee Assistance Program.

USCCR INITIATIVES:

Administrative Instructions have been approved by OPM and issued in the following areas:

- Performance Appraisal System for GS-1 through GS-15 (General Schedule) and Prevailing Rate Employees
- Performance Appraisal System for Senior Executive Service (SES) Employees
- Employee Recognition Program

Thus, formally approved appraisal systems now exist for all types of positions. A task force was created last Fall with participation from each Commission office for the purpose of developing generic performance standards for the three major types of positions that exist throughout the agency: clerical or secretarial, program or technical specialists, and managerial or supervisory. Performance plans have subsequently been issued for the first time in approximately 2 years to most Commission staff.

Portions of the policy issuance covering the performance award rates for merit pay staff were revised to bring them into compliance with regulatory limitations and the two procedural irregularities cited in FY 1986 have been remedied.

Also an Employee Assistance Program has been implemented by virtue of reimbursable argeements with the Public Health Service in each of the Regional Division locations and in Headquarters.

Additional Personnel Management and EEO Initiatives:

Many critical managerial vacancies have been filled during the past year. Innovative personnel management programs were applied to Commission staffing needs resulting in new hires under the Stay-in-School Program, the Veterans Training Program and the Handicapped Employment Program.

An agreement was reached with the head of OPM's Training Center resulting in the opportunity for Headquarters Commission staff to participate in OPM training programs at a 25% cost reduction. Additionally, a Commission generated idea for minimal-to-no-cost training has resulted in the soon to be introduced Managerial Training Seminars sponsored by the Small Agency Council. Issues such as "Ethics in the Workplace" and "Symptoms of Substance Abuse" are examples of topics to be addressed. The Commission has placed an enhanced emphasis on the recognition of the contribution of various minority groups and women to the history and culture of American society by various speakers at Commission staff meetings and by the presentation of the 6-part PBS series "Eyes on the Prize".

GENERAL ACCOUNTING OFFICE AUDIT

This audit initially covered a review of selected Commission activities during FY 1983 through the first quarter of FY 1986 and was subsequently expanded in scope to include FY 1978-1982. The final report, published in May 1988, addressed 13 areas of concern which are summarized below along with corresponding Commission initiatives.

ISSUE #1 - Employment Trends

GAO auditors reviewed staffing levels to compare career positions and vacancies with the number and salary costs of noncareer employees (defined as temporaries, consultants and Schedule C appointees) to determine if noncareer employees had been hired in lieu of career employees. GAO found "that noncareer employees averaged 71 percent of total appointments for the earlier years (from the 2nd quarter of FY 1978 through FY 1982) and 78 percent during the later years (FY 1983 through the first quarter of

FY 1986). On average noncareer employees represented 12 percent of the work force for fiscal years 1978, 1980 and 1982 and 18 percent for 1983 through 1985." "Career vacancies in FY 1978, 1980, and 1982 averaged 13 percent of total authorized positions compared to 15 percent in 1983 through 1985."

ISSUE #2 - Hiring and Use of Consultant, Temporary and Schedule C Employees

GAO investigated concerns that consultants were hired to do work that should have been performed by career staff, that consultant appointees concurrently held consultant contracts with the Commission providing dual compensation for the same work and that the Commission allegedly circumvented the merit procedures in hiring noncareer employees. GAO stated that they "found violations of OPM employment requirements on all 74 noncareer appointments for which records were available in the later years...found violations of OPM required procedures for each of the 31 consultant appointments" reviewed. The violations cited concerned a lack of documentation on: the consultants duties and responsibilities, and certifications of Employment and Financial Interests. Several consultants were cited for the appearance of performing operating functions inappropriate to the use of this appointing authority. GAO concluded that no individuals were dually compensated as consultants and contractors for performing the same work; therefore, no impropriety existed in this respect. GAO cited insufficient documentation in the announcement of temporary vacancies and the subsequent appointment action. GAO further indicated that the Schedule C appointment process was not properly documented.

USCCR INITIATIVES: (Addressing Issue #1 and #2)

As mentioned previously, an extensively detailed Administrative Instruction has been issued on the appointment and use of Consultants and Experts. All appropriate documentation is contained in personnel records on such appointments. Quarterly reviews are conducted to ensure the proper use of this appointing authority. Temporary vacancies and appointments are similarly documented. Consultant appointees continue not to be dually compensated via concurrent consultant contracts.

ISSUE #3 - Referrals from State Employment Service Offices

GAO looked into whether or not the Commission had notified the Washington, D.C. employment service of job vacancies, documented the number of candidates referred and the number hired by USCCR. GAO concluded that the Commission's applicant supply files did not contain sufficient documentation to determine if vacancy announcements were sent to the appropriate State Employment Service Office.

USCCR INITIATIVE:

During the past year, all appropriate contact has been made and documented on referrals to and from State Employment Offices.

ISSUE #4 - Affirmative Action

GAO investigated the allegation that white males constituted most of the employees hired since December 1, 1983 and GAO concluded that "minorities and women were the majority of employees hired and promoted during both the earlier and later years."

USCCR INITIATIVES:

Quarterly statistical reports have been reinstituted to chart Commission staff by grade level and minority group.

Additional affirmative action outreach efforts will occur as Commission vacancies arise to attract a wide applicant pool from which candidates will be selected.

ISSUE #5 - Awards and Promotions

GAO researched concerns expressed regarding employees hired after December 1, 1983 to determine if such individuals were receiving more frequent and prompt awards and promotions than employees hired earlier. GAO's conclusions generally did not support this allegation. They stated that "during the later years, 11 employees received one or more awards less than one year after receiving a previous award, with 1 employee receiving 3 awards in less than a year. All of these individuals were career employees who had been hired by the Commission before December 1, 1983." GAO further stated "The majority of award recipients after December 1, 1983, were career employees who were employed by the Commission before that date."

On the subject of promotions, GAO concluded that "Most of the promotions in the later years went to employees hired before December 1, 1983, until the first quarter of fiscal year 1986."

USCCR INITIATIVES:

Since this issue addressed a particular point in time it is not germane as a continuing issue. In general, however, established Commission procedures coupled with periodic personnel reporting mechanisms provide sufficient insurance that fair and equitable treatment is afforded to all staff in promotion and award determinations.

ISSUE #6 - Commissioners' and Special Assistants' Billings

GAO investigated an allegation that the previous "Chairman and Special Assistant were allegedly filling part-time positions but billing the Commission on a full-time basis." In researching this concern, GAO examined billings from all Commissioners and Special Assistants and attempted to determine whether the tasks for which the Special Assistants were billing reflected appropriate work assignments.

GAO concluded that former Chairman Pendleton's billings substantially exceeded the previous Chairman's billing on an average yearly basis. They further concluded that the use of the Special Assistant time (during the period reviewed) was appropriate to this type of position.

USCCR INITIATIVES:

Since the allegation reviewed concerned previous incumbent activities in the positions of Chairman and Special Assistant, no further action is necessary except for the periodic monitoring of time sheets submitted for payment. In a general sense, we have addressed this issue, however, by instituting in FY 1989 individualized bi-weekly statements of billable hours for Commissioners and Special Assistants to assist all concerned in the monitoring of expenditures against the Earmark.

ISSUE #7 - Financial Disclosure Reports

This is a similar issue to #6 in that the GAO investigated a concern that the former Chairman and his Special Assistant "were receiving almost full-time compensation from the Commission while also being employed elsewhere." To research this issue, GAO auditors examined financial disclosure reports and concluded that "In no instance did the financial disclosure reports show the 10 Commissioners and Special Assistants relied on the Commission as their sole source of income in either the earlier or later years." (10 reports were selected as a sample)

USCCR INITIATIVE:

As similarly stated under #6, this issue addressed a specific allegation that does not carry forward. In a general sense, however, updated financial disclosure forms are requested annually from all appropriate Commission staff and are appropriately monitored for compliance by the Solicitor.

ISSUE #8 - Commission Travel

GAO examined travel vouchers for the Commissioners, Special Assistants, Staff Directors, and OGC staff, ascertained the policy for Commissioners' travel and compared the extent of travel before and after December 1, 1983. GAO found "31 instances in fiscal years 1984 and 1985 and 29 instances before 1984 of sources outside the Commission paying for Commissioner and staff travel expenses. 45 of these 60 instances were for the (former) current Chairman's travel." GAO highlighted the fact that payments made by outside sources (except from tax exempt institutions) constituted "an unauthorized augmentation of the Commission's appropriations."

USCCR INITIATIVES:

At the beginning of FY 1989 a detailed Travel Policy Statement was issued to all Commissioners, Special Assistants and Commission staff to replace outdated procedural guidance on this issue. Travel vouchers submitted for payment are audited to ensure compliance with established policy and governmentwide regulations.

ISSUE #9 - Appropriations

GAO auditors attempted to determine if the Commission may have violated FY 1985 line item appropriations but were unable to reach a conclusion due to "the way that they were established, the discretion the Commission had in allocating costs, and the poor condition of the Commission's budget records."

USCCR INITIATIVES:

Newly redesigned formats were developed for the preparation of the FY 1989 Operating Budget Plan to provide a more comprehensive method by which appropriated monies are budgeted and against which expenditures will be tracked. Plans have begun to redesign account codes to reflect the reorganized FY 1989 Operating Budget Plan for detailed tracking of expenditures. Coordination with the National Finance Center on this issue will result in the incorporation of these revised codes into the automated system they maintain to track USCCR expenditures. Additionally a portion of the Status of Earmarks report was revised to reflect percentages of obligations as compared to the earmarks.

ISSUE #10 - Lobbying

GAO looked at specific correspondence to determine if the former Chairman may have violated federal antilobbying restrictions and found no such violation.

USCCR INITIATIVES:

None required due to the fact that this issue focused exclusively on activities of the former Chairman and no violations were found.

ISSUE #11 - State Advisory Committees

(not addressed in this memorandum)

ISSUE #12 - Commission Automobile

GAO researched a concern that the Commission's automobile was used for other than official business. They could not substantiate this allegation based on a review of available documentation.

USCCR INITIATIVES:

The costly lease of warehouse space to store Commission publications was cancelled and a new agreement was reached for the lease of space from GPO. This resulted in the elimination of the Commission's leased automobile and the redirection of efforts of one Commission employee formerly devoted to warehouse operation.

ISSUE #13 - Contracting

It was alleged that contractors were doing the work of career staff. GAO examined contractual documents to determine whether contracts were subject to competitive bidding. Incomplete documentation in contractor records precluded a definitive conclusion in these areas.

USCCR INITIATIVES:

No contracts for mission related activities were issued in FY 1988 and none have occurred thus far in this fiscal year. Small purchasing procedures were issued to staff in FY 1989, and a requisition form was introduced for the proper authorization and obligation of funds prior to the issuance of obligating documents. Enhanced procurement documentation is now a part of the procurement operation.

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